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Letter dated 26 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 5 June 2002 (S/2002/635).

The Counter-Terrorism Committee has received the attached supplementary report from Colombia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: Spanish]

Note verbale dated 16 September 2002 from the Permanent Mission of Colombia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of Colombia to the United Nations presents his compliments to the Chairman of the Counter-Terrorism Committee and, with reference to his letter of 28 May 2002 containing the preliminary comments of the Counter-Terrorism Committee on the report submitted by Colombia pursuant to paragraph 6 of Security Council resolution 1373 (2001), has the honour to provide the additional information requested (see appendix).

Appendix

Reply supplementing the report on counter-terrorism measures which Colombia submitted in December 2001 to the Counter-Terrorism Committee established pursuant to resolution 1373 (2001) of the Security Council*

I. Introduction

1. The Government of Colombia reaffirms its commitment to the fight against international terrorism and is therefore responding promptly to the preliminary comments and questions of the Counter-Terrorism Committee in this supplement to the report submitted in December 2001 pursuant to paragraph 6 of Security Council resolution 1373 (2001).

2. It welcomes the careful review of the report in question by the Counter-Terrorism Committee experts as a clear demonstration of the Committee's desire to see Colombia adopt mechanisms, strategies and policies which make an effective contribution to preventing and punishing international terrorism.

3. It is therefore submitting the additional information in accordance with paragraphs 3 to 6 of the guidance note of 26 October 2001, in particular paragraph 5, containing details on the preferred format and the address for the submission of reports, as followed by the Government of Colombia in its initial report.

4. This supplementary report contains no confidential annex for the attention of Counter-Terrorism Committee members only.

II. Paragraph 1

Subparagraph (a)

In view of the efforts of the international community to halt the abuse of informal banking networks, we should like to know how that situation is or will be dealt with in Colombian legislation.

5. The Colombian Penal Code, in its chapter on money-laundering, requires any suspicious transaction to be reported. In particular, its article 325 criminalizes non-compliance with control mechanisms, which it describes in the following terms:

> *"Any employee or director of a financial institution or savings and loan cooperative who, with a view to concealing or disguising the illicit origin of the money, fails to comply with the control mechanisms established by the legal system with respect to cash transactions, shall be liable to a term of imprisonment ..."*

6. Both Decree No. 663 of 1993 on the Financial Institutions Statute and Act No. 190 of 1995, Anti-corruption Statute, require the reporting of irregularities.

7. The operation of "informal" banks in Colombian territory is expressly forbidden in our country's financial legislation. In accordance with article 53 of the

* The enclosures are on file with the Secretariat and are available for consultation.

Organic Statute of the Financial System (EOSF), individuals wishing to carry out banking-type operations in this country must formally establish an entity for that purpose, for which they are required to meet a series of legal requirements and obtain due authorization from the Superintendence of Banks.

8. In order that this legal requirement may be met at all times, the EOSF requires the Superintendence of Banks to ensure that no one undertakes any irregular or informal banking activity in the country. To this end, pursuant to article 326, paragraph 4 (a), of EOSF the Superintendence of Banks must, when there is credible evidence, undertake inspection visits to offices or locations where individuals are operating who may be involved in informal or illegal banking activity and to adopt effective measures with a view to preserving public confidence in the Colombian financial system.

9. Article 108 of the EOSF authorizes the Superintendents of Banks, once the exercise of informal banking activity has been established, to adopt whatever preventive measures may be necessary, ranging from an order to suspend activity under pain of fines to liquidation of the company and of any illegal banking operations.

10. The Superintendence of Banks undertakes on average 30 visits per year to the offices of persons suspected of being involved in informal banking activity. Although such visits do not always uncover cases of illegal banking activity, many such informal networks have been dismantled.

Is Colombia considering requiring natural or legal persons, other than banking entities (e.g. attorneys, notaries) to report suspicious transactions that might be linked to terrorist activities?

11. Yes, in the case of notaries' activities performed as a public service.

12. The State of Colombia has been working on this type of measure and has issued Decree No. 1957 of 17 September 2001, which requires notaries certifying legal documents as part of the normal performance of their duties to report any document which they suspect may be linked to money-laundering activities.

13. Subsequently, the Superintendence of Notaries and Registries, in coordination with the Information and Financial Analysis Unit (UIAF), issued orders 02-01 and 02-7 in January and May 2002, setting forth the guidelines and methodology to be followed by notaries to ensure that their services are not utilized by criminal organizations for the purpose of money-laundering.

14. It should also be pointed out that, pursuant to Security Council resolution 1373 (2001), the National Government, through the Superintendence of Banks, in Circular No. 143 of 2001 addressed to the legal representatives of the entities concerned, gave instructions with a view to monitoring possible transactions by terrorist organizations.

Please provide the Counter-Terrorism Committee with more detailed information on criminal investigations of persons or organizations that collect funds to finance terrorist acts and which are undertaken in order to identify their sources of financing.

15. Termination of ownership rights.

- Case 015E.D. Luis Felipe Simanca Negrete — Ejército Popular de Liberación (E.P.L.)
- Case 348E.D. Raul Blanco Uribe — Ejército Popular de Liberación (E.P.L.)
- Case 544E.D. — Fabio Martínez (Frente 29, FARC)
- Case 670E.D. Arsecio Esteban Solano and Johana Parada Olarte (Frente 59, FARC)
- Case 1062E.D. Operation Guaitara (FARC)
- Case 1261E.D. Rodrigo Bermúdez Molina y José Helber Pacheco López — (FARC)
- Case 1295E.D. Operation Guaitara (FARC)
- Case 1124E.D. Luis Domingo Arévalo López (alias Chumingo) — Ejército de Liberación Nacional E.L.N.
- Case 1196E.D. Alejandro Manuel Arrieta Barrera — Pecho Efique — Ejército Popular de Liberación (EPL) y Fuerzas Armadas Revolucionarias de Colombia (FARC)
- Case 348E.D. Agents of the Ejército Popular de Liberación (EPL)
- Case 1042E.D. Elias Celis Suárez, Saúl Celis Suárez, Clara Carvajal Aguilar, Arnaldo Pérez Pabón, Luis Ernesto Blanco, Carlos Blanco, Erasmo Tarazona Mayorga and Marlene Mayorga — Ejército de Liberación Nacional (ELN)
- Case 1196E.D. José Alejandro Arrieta Barrera, Magola Isabel Lozano de Arrieta (EPL)
- Case 1198E.D. Gonzalo Rodríguez Bautista (ELN)
- Case 1326E.D. Ricardo Falla Ferro — Kidnapping at Miraflores Building in Neiva (FARC)
- Case 1327E.D. Kidnapping at Miraflores Building in Neiva — Sandy Rocío Villalba Mosquera (FARC)
- Case 1413E.D. Mariano Marín Cuervo — Bateman Coyon Disidencia M-19
- Case 1416E.D. Carlos Alfonso Cerpa (FARC)
- Case 1509E.D. Carlos Enrique Gómez Rodríguez (FARC)
- Case 1537E.D. Fredy Barros and persons unknown — Autodefensas Unidas de Colombia (AUC)
- Case 1538E.D. Frente 22, FARC

16. Criminal Investigations

- Case 209L.A. Domingo Arévalo Lopez (Alias Chumingo) — Ejército De Liberación Nacional E.L.N.

  Crime: Illicit enrichment

- Case 1103L.A. UIAF Report "TAXI CASE" (FARC)

Accused: Reinel Guzmán, María Yuri Bolaños, Miller Carvajal, Luis Fernando Calderon, Jairo Escobar Cortes, Oscar Silva, Liliana Zuñiga, Diana Marcela Acosta Perilla

Crime: money-laundering

- Case 1366L.A. PRIMITIVO VASQUEZ VARGAS

  Crime: Illicit enrichment

- Case 331L.A. Frente 45 Fuerzas Armadas Revolucionarias de Colombia (FARC)

  Crime: Illicit enrichment and money-laundering

- Case 350L.A. Ejército Popular de Liberación (EPL)

  Crime: Illicit enrichment

- Case 351L.A. Ejército Popular de Liberación (EPL)

  Crime: Illicit enrichment

- Case 1023L.A. Alejandro Manuel Arrieta Barrera — Pecho Efique — Ejército Popular de Liberación (EPL) y Fuerzas Armadas Revolucionarias de Colombia (FARC)

  Crime: Illicit enrichment

- Case 1140L.A. Fuerzas Armadas Revolucionarias de Colombia (FARC) — Bloque Caribe

  Crime: Money-laundering

- Case 1141L.A. Fuerzas Armadas Revolucionarias de Colombia (FARC) — Bloque Caribe

  Crime: Money-laundering

- Case 1147L.A. Ejército de Liberacion Nacional (E.L.N.) — Bloque Caribe. Frente José María Becerra

  Crime: Money-laundering

- Case 1169L.A. Ejército de Liberación Nacional (E.L.N.) — y Fuerzas Armadas Revolucionarias de Colombia (FARC)

  Crime: Money-Laundering

- Case 1265L.A. Eriberto Carabali Rivera Viveros (Autodefensas Unidas de Colombia) (Auc)

  Crime: Money-laundering

- Case 1422L.A. Javier Alexander Niño Mendez, Hector Avelino Roja Pacheco (FARC)

  Crime: Money-laundering

- Case 1491L.A. Fuerzas Revolucionarias de Colombia (FARC)

  Crime: Money-laundering

- Case 1472L.A. Fuerzas Revolucionarias de Colombia (FARC)

  Crime: Money-laundering

- Case 1528L.A. Fuerzas Revolucionarias de Colombia (FARC)

  Crime: Money-laundering.

How does the Superintendence of Banks ensure that the entities under its control have effectively put in place appropriate and adequate mechanisms designed to prevent their operations from being utilized in any way to conceal, manage, invest or use money or other assets derived from criminal activities; or to give the appearance of legality to criminal activities or to transactions and funds related to such activities?

Procedure followed by the Superintendence of Banks to verify that the entities under its control have put in place mechanisms to prevent illicit activities

17. The Superintendence of Banks, as a supervisory body, has two legal tools which it routinely employs to perform its task of monitoring and regulating financial entities, and which are, of course, used to ensure that these entities are complying with the rules for the prevention of criminal activities.

18. The first of these tools is the power to give general instructions designed to help the entities under its control to observe faithfully the legal regulations by which they are bound. The Organic Statute of the Financial System imposes a general obligation on such entities to adopt appropriate mechanisms to prevent criminal activities. The Superintendence of Banks, using its authority to instruct, has issued various external circulars setting out in detail the legal provisions involved, which basically oblige those entities to put in place the Integrated System for the Prevention of Money-Laundering.

19. The second tool the Superintendence of Banks has at its disposal in order to verify that the entities under its control have indeed adopted the Integrated System and that the system operates properly is that of on-site inspection. The Superintendence of Banks periodically visits the headquarters of those entities to carry out inspections and, as a general rule, includes the prevention of criminal activities in the list of matters to be evaluated. These inspections are in addition to the many visits it makes for the sole purpose of monitoring compliance with the legal regulations. In this way, the Superintendence of Banks keeps under constant review the quality of the legally required prevention systems in all the entities concerned.

What are the penalties for failure to adopt such mechanisms, for non-compliance with such mechanisms or for adopting mechanisms that are insufficient to prevent and suppress the financing of terrorist acts?

General framework

20. Article 65 of the Code of Criminal Procedure provides for:

> "*Revocation of the legal status of companies or organizations involved in criminal activities, or the closing of their premises or establishments open to the public. When at any point of a proceeding a legal officer is satisfied that legal persons, companies or organizations have engaged exclusively or*

partially in criminal activities, he shall order the competent authority to proceed, upon completion of the legal requirements established for the purpose, to revoke their legal status or close their premises or establishments open to the public."

21. Furthermore, article 324 of the Penal Code on specific aggravating circumstances stipulates that the prison sentences provided for in the article that penalizes money-laundering shall be increased by one third to one half when the act is committed by an employee of a legal person, a company or an organization engaged in money-laundering and by one half to three quarters when it is committed by a director, administrator or manager of a legal person, company or organization.

Penalties for entities that fail to adopt mechanisms

22. Entities under the control of the Superintendence of Banks which fail to comply with legal regulations for the prevention of criminal activities are liable to fines of up to 1.6 billion pesos (approximately US$ 620,000); the administrators of those entities are liable to personal fines of up to 80 million pesos (approximately US$ 30,000). Furthermore, the Superintendence of Banks can order the entities to devote up to 1.6 billion pesos (approximately US$ 620,000) to putting in place corrective mechanisms.

Please describe the mechanisms which have been put in place on the basis of article 102 (1) of the Organic Statute of the Financial System.

Mechanisms put in place on the basis of article 102 (1) of the Organic Statute of the Financial System

23. Pursuant to this article, the Superintendence of Banks issued the instructions set out in section I, chapter 9, paragraph 6, of External Circular No. 007 of 1996. The Circular requires entities to adopt and put in place procedures for the following purposes, and they in effect constitute the above-mentioned Integrated System:

(1) Knowledge of the client

(2) Procedures for knowledge of the client by financial groups

(3) Knowledge of the market

(4) Control of transactions through:

  (a) Market segmentation

  (b) Consolidation of transactions by client

  (c) Alertness to warning signals

  (d) Technological development

(5) Detecting unusual transactions and identifying suspicious transactions

(6) Monitoring cash transactions

(7) Internal organization of information

(8) Training

(9) Reports:

(a) Reports on cash transactions

(b) Consolidated report to the Superintendence of Banks

(c) Consolidated report on any network usage contracts concluded

(d) Report on suspicious transactions to the special Information and Financial Analysis Unit, in the Ministry of Finance and Public Credit, for the control of money-laundering

(e) Report on transactions blocked by the entity

(10) Code of conduct

(11) Manual of procedures

(12) Auditing of control mechanisms through:

(a) Executive officer

(b) Internal audit

(c) Tax audit

(13) Retention of documents.

As regards the financing of terrorism, does Colombia intend to put entities under specific legal obligation to report suspicious transactions in respect to funds, financial assets or economic resources which are not connected to money-laundering activities, i.e., funds which are of lawful origin?

24. Reports of suspicious transactions are seen as the raw material for the work of the Information and Financial Analysis Unit. Such reports cover transactions whose scope or characteristics bear no relation to the economic activity of the business and exceed the normal parameters established, thereby giving rise to serious suspicion, belief or certainty that their origin is linked to illicit activities.

25. Reports of suspicious transactions are submitted directly to the Information and Financial Analysis Unit by each of the entities required to report them, following the instructions given by the bodies responsible for inspection, monitoring and control.[1] It is important to point out that the information given in reports of suspicious activities, received either from public or private entities or from individuals, does not constitute evidence or a formal complaint, and that it can be used only for the work of centralization, systematization and analysis stipulated in article 3 of Act No. 526 of 1999.

26. The Information and Financial Analysis Unit, having centralized, systematized, evaluated and analysed the reports of suspicious transactions, prepares financial intelligence reports, which are sent to the Office of the Prosecutor-General for subsequent judicial action.

The strategy document "*The Road to Peace and the Strategy against Terrorism*" aims to restrict banking secrecy. Please inform the CTC about any legislative measures taken in order to prohibit the use of anonymous accounts or accounts in fictitious names.

27. Pursuant to the document "*The Road to Peace and the Strategy against Terrorism*", the Government of Colombia is currently studying possible legislation to restrict banking secrecy, in the firm belief that the concept of secrecy cannot be made into a means of evading the reach of the law and allowing crimes to be committed. Banking secrecy, then, constitutes a right that is restricted by the public interest as represented in the criminal investigations that are carried out when criminal acts are performed.

28. Through the Committee of the Centre for Coordinating the Fight against Illegal Self-Defence Groups and the Inter-Agency Committee against the Financing of Guerrillas, the Ministry of Defence works to weaken the financial structure of such groups in order to reduce their operational capabilities and thus to discourage terrorist behaviour.

29. In addition, with the adoption of resolution 3 of 7 June 2002, the Board of Directors of the Bank of the Republic established new controls over independent foreign exchange traders, as distinct from exchange market brokers. The Directorate of National Taxes and Customs is responsible for monitoring and applying penalties for failure to comply with those regulations.

30. Furthermore, the international exchange regime established by the Bank's Board of Directors (in resolution 8 of 2000) includes various regulations which also help to prevent money-laundering and the financing of terrorism.

6. **Subparagraph (b)**

Does Colombia intend, as part of the process of ratifying the International Convention for the Suppression of the Financing of Terrorism, to amend its criminal legislation in order to implement this subparagraph?

31. The bill on the International Convention for the Suppression of the Financing of Terrorism was adopted on 20 June 2002 by the full Senate of Colombia, after having been approved by a Senate Committee on 29 May 2002. In order to complete the legislative process, two debates must be held in the House of Representatives. The legislation has then to be approved by the President of the Republic and reviewed by the Constitutional Court, after which the instrument of ratification will be deposited.

32. With regard to the criminalizing by States of "*the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts*" (Security Council resolution 1373, of 13 September 2001, paragraph 1 (b)), apart from the existing criminalization of terrorism or conspiracy to commit an offence with terrorist aims provided for in the Penal Code (Act 599 of 2000), article 345 of the same Code marked an important legal advance by raising to the rank of a crime the management of resources linked to terrorist activities,[2] thus providing an effective tool for punishing those who participate in terrorist activities by providing financial support.

33. However, once the internal procedures for Colombia to become a party to the Convention have been completed, the National Government is ready to submit whatever draft legislation is needed to bring Colombian legislation into line with the requirements of the Convention and other international instruments, a question that it has already begun to study.

7. **Subparagraph (c)**

Please describe the existing or planned procedure for freezing funds, financial assets, etc., of persons or entities suspected of supporting terrorist activities, as distinct from the procedures for freezing funds, financial assets, etc., of persons suspected of engaging in money-laundering activities.

34. Although our legislation has no special procedure for "freezing" funds or financial assets of persons or entities suspected of supporting terrorist activities, any assets linked to criminal activities, including terrorism, are subject to confiscation in the context of a criminal procedure, as provided in article 67 of the Code of Criminal Procedure.[3]

35. Consequently, money or assets intended for criminal acts related to the financing, support or direction of terrorist activities that are deemed injurious according to Colombian law are thus material objects of the crime. This is a sufficient reason for the State, applying the legal definition of confiscation, to lay claim to them in the course of a criminal procedure.

36. Article 2, paragraph 4, of Act No. 333 of 1996 (annexed) on termination of ownership rights establishes that such rights shall be declared terminated in cases in which assets are used as a means or as instruments to commit criminal acts or are intended for such purpose, unless they are subject to confiscation or seizure in the context of a criminal procedure or pursuant to an enforceable judicial decision.

37. Since "freezing"[4] by definition implies a restriction on the right of ownership, the expropriation of assets or the restriction of that right must, pursuant to Act No. 333 of 1996, be effected by court order, either through a precautionary measure seeking criminal confiscation or a precautionary measure seeking termination of the right of ownership.

38. It is important to note further that the regulations governing the prevention of money-laundering are in actual and legal terms the regulations on the prevention of criminal activities, so that the entities under the control of the Superintendence of Banks are bound by the same set of legal rules for preventing the financing of terrorist acts or the concealment of resources derived from or intended for the financing of terrorist acts.

Which individuals or authorities are entitled to request confiscation or termination of ownership for the purpose of ensuring compliance with this subparagraph, and which authority is entitled to issue an order for the freezing of funds?

39. In Colombia, only judicial authorities (judges and prosecutors) can order the confiscation or seizure of funds and like procedures.

40. It is the judge who, when handing down a sentence, takes the final decision on confiscation or termination of ownership.

41. In addition, from the start of the preliminary investigation, in either criminal proceedings or proceedings for termination of ownership, the Office of the Prosecutor-General is empowered, as a judicial authority, to order the confiscation of funds or assets. If the necessary evidence exists to link the asset with the criminal activity, the expropriation order can be issued immediately. Where there is not sufficient proof, our legislation stipulates that, both in criminal proceedings and in proceedings for termination of ownership, there must be a preliminary six-month period for gathering the necessary facts in support of a confiscation order.

What is the legal time frame within which a court must grant or deny authorization for the freezing of funds, and how long does it take in practice to freeze such funds?

42. As soon as the preliminary enquiry has begun, whether in the context of criminal or termination of ownership proceedings, the Office of the Prosecutor-General, as the competent judicial authority, has the power to issue an order for the freezing of funds or assets.

43. If there is sufficient evidence linking the item of property with the criminal activity, the order for the freezing of funds may be issued immediately. If there is insufficient proof, our legislation provides, in either criminal or termination of ownership proceedings, for an initial period of six (6) months to be allowed for gathering the necessary facts to support an order for the freezing of funds.

8. Subparagraph (d)

How does the financial tracking system ensure that funds received by associations are not diverted from their stated purposes to terrorist activities?

44. The Information and Financial Analysis Unit of the Ministry of Finance concludes agreements with financial tracking bodies in other countries to exchange information, which helps to carry out initial checks, with particular reference to recent international legal measures to combat Colombian terrorist groups and other groups outside the law.

45. In the same context, the relevant Interpol agreements help to ensure that other countries duly report suspicious transactions, but institutions at the national level need to work together to exchange the information they require to complete enquiries being carried out in cooperation with other countries.

46. It should be pointed out that the Information and Financial Analysis Unit has established contacts with other authorities with a view to examining this issue.

47. Our country needs to receive feedback from countries that have developed mechanisms to monitor the funds received by associations and by non-governmental and non-profit organizations, with a view to ensuring that funds are not diverted to terrorist activities. In this regard, the Government would be very grateful for the assistance of the Counter-Terrorism Committee.

Paragraph 71 of the report states that "the signing of conventions and exchange of information among various financial intelligence units has made it possible to become familiar with some of the techniques that can be used by terrorist groups to finance their activities, as well as to track such money and confiscate it". Please describe how this is the case.

48. Even though there are no official agreements as yet, the formation of strategic partnerships and exchange of information has occurred between the financial intelligence units of State agencies in some instances, which has helped to suppress the financing of terrorist organizations in the following ways:

- Identifying the criminal modalities used by terrorist groups for the laundering of assets.
- Establishing procedures for screening the financial structure of these organizations and applying flexible mechanisms to weaken their economic power.
- Sharing the existing databases in the various research and intelligence agencies, with a view to avoiding an overlap of roles and guiding the work of enquires being carried out.
- Exchanging experiences acquired in carrying out enquiries into financial crimes with a view to detecting and freezing the assets of terrorist organizations.
- Using the human talent and resources required for carrying out enquiries.
- Disseminating existing tools in the legal system to combat this offence, such as the legislation on termination of ownership rights (Act No. 333 of 1996).
- Training and giving feedback to officials of the various investigation agencies, concerning new techniques used by criminal organizations.

49. Since June 2000, the Information and Financial Analysis Unit, Colombia's financial intelligence unit, has been part of the Egmont Group,[5] designed to facilitate the exchange of financial intelligence information. Through one of its working groups, information concerning the modalities of money-laundering linked to terrorism has been collected over recent months, and distributed to all its members for consultation.

Which conventions have been instrumental in tracking and confiscating suspicious funds?

50. Existing agreements between State institutions that provide the necessary information for carrying out enquiries and the Directorate of the Judicial Police are supported by information exchange agreements that allow access to databases through the following consultation points:

- Asobancaria — CIFIN
- District Chambers of Commerce
- Superintendence of Companies
- Superintendence of Health
- District property records

- National Registry Office
- Ministry of Foreign Trade
- Information Centre on Criminal Activities (CISAD)

51. At the international level, since 11 September 2001, the Egmont Group has held a series of consultations with all intelligence units on the modalities used to launder assets linked to terrorist activities. In this context, it should be pointed out that we have received this kind of information solely through the Egmont Group, which has also assisted with the work done by the Financial Action Task Force in developing eight recommendations on terrorism and publishing guidance notes on types of international terrorist groups, including details of the modalities for laundering assets linked to terrorism, for its 2001 report.

52. Lastly, we should draw attention to the 15 information exchanges that Colombia has arranged through the Group, with a view to tracking persons, companies, or groups of persons or companies that may be supporting terrorist activities in the world.

III. Paragraph 2

9. Subparagraph (a)

Articles 365 and 366 of the Penal Code punish the carrying of firearms. Please explain why it was necessary to restrict the carrying of firearms in the territories of 59 municipalities (as stated in paragraph 55 of the report).

53. The Political Constitution establishes that one of the functions of the President of the Republic, in his capacity as Head of State and Government and supreme administrative authority, is to maintain public order throughout the national territory and to restore it whenever it is disturbed.

54. Thus, a restriction order on the carrying of firearms, to be enforced by the competent military authorities, may be issued by the President of the Republic, in exercise of his constitutional powers to maintain public order and national security. Temporary restrictions on the carrying of firearms have been applied throughout the country, in connection with events like elections, community protests, demonstrations and football matches.

55. The Mayor, as the official in charge of municipal police, is responsible for designing and developing comprehensive plans and strategies for the safety of cities and public order, according to the needs and circumstances of his or her community.

56. However, although mayors may be in charge of administrations and municipal police forces, in the area of arms control, they merely have the power to give the order for the seizure of arms by police, and to provide the competent criminal justice authorities with sufficient information to ensure that the arms are confiscated.

57. The military authorities referred to in Decree No. 2535 of 1993 have the power to suspend licences for the carrying of firearms, in accordance with that Decree, either ex officio or at the request of the Mayor or Governor.

58. Thus, the concerted efforts of mayors and the appropriate military authorities are required for the maintenance of public order in urban areas.

59. Therefore, the restriction reflects the constitutional duty of the administrative authorities, at the national and district levels, to protect the lives, honour, property, beliefs and other rights and freedoms of the inhabitants of the country.

60. Given the high homicide rate, the need to take general arms control measures became evident. As indicated in a report by the Ministry of National Defence: "The restrictions on the carrying of arms are intended to make it more difficult to commit homicide and to discourage homicidal behaviour in the country. A restriction on the carrying of arms means that: (i) in the case of impulsive violence, situations that might otherwise have ended in murders are prevented from doing so, and (ii) it becomes more difficult to commit crimes involving arms because the capacity for seizing illegal arms is enhanced."[6]

61. In the light of the above, and with a view to implementing the crime reduction strategies that the National Government has been introducing for curbing the incidence of homicide, aggravated robbery and assault, the decision was taken to grant authorization, through Presidential Directive No. 006 of 15 July 1999, to mayors from the 59 municipalities with the highest firearm-related crime rates to request the military authorities to enforce a general restriction on carrying arms in central municipal districts, applicable to the civilian population for long periods. Initially, the Directive established the applicability of the measure to 59 municipalities, on Saturdays and Sundays, from 9 p.m. to 4 a.m. the following morning. The restriction is still being applied in some of the main towns and municipalities of the country, but only within city limits.

62. Similar measures have been applied by various local administrations, as in the case of Bogotá, which has applied such measures on four separate occasions during the period 1994 to 1999, and managed to reduce homicide rates by over 14 per cent.

Is there any provision in Colombian law prohibiting the acquisition of firearms without a licence (especially at the time of purchase)?

63. The acquisition of firearms without a licence is prohibited in Colombia, pursuant to article 233 of the National Constitution, which reads as follows:

> "*Only the Government is entitled to import or manufacture arms, war munitions and explosives. No person shall be entitled to possess or to carry them without a licence issued by the competent authority. Such licences may not be granted to persons either participating in or attending political meetings, elections, or meetings of public corporations or assemblies.*
>
> "*Officials belonging to national security agencies and other official armed bodies having permanent status and established or authorized by law are entitled to carry arms under governmental control, in accordance with the principles and procedures established by law.*"

64. Thus, the Political Charter establishes that only the State has the power to issue licences for the possession or carrying of arms by individuals.

65. In addition, through Decree-Law No. 2535 of 1993, the National Government regulates the possession, carrying, sale, manufacture and use of firearms, ammunition and explosives within the national territory. Pursuant to article 20 of this Decree, in the case of each firearm within the national territory owned by individuals, the owner must have received a valid licence to possess or carry it,

issued by the competent military authority. Thus, only the State is entitled to authorize the possession or carrying of firearms.

66. Articles 365 and 366 of the Penal Code prohibit the carrying of weapons for self-defence or for the exclusive use of the armed forces. There is no time limit on the applicability of these provisions, which are in force permanently.

What are the current and proposed penalties for the illegal carrying of arms?

67. Articles 365 and 366 of Act No. 599 of 2000, establishing the new Penal Code, provide for sentences of between one and four years' imprisonment for anyone who, without a licence issued by the competent authorities, imports, traffics in, manufactures, transports, stores, distributes, sells, supplies, repairs or carries self-defence firearms, ammunition or explosives. The sentence shall be doubled if the offence is committed:

1. using a motorized vehicle, or
2. with a criminally acquired firearm;
3. or if the suspect: violently resists the demands of the authorities, or
4. uses masks or similar objects to conceal or attempt to conceal his or her identity.

68. Moreover, article 366 provides for sentences of between three and 10 years' imprisonment for anyone who, without a licence from the competent authority, imports, traffics in, manufactures, repairs, stores, keeps, acquires, supplies or carries weapons or munitions for the exclusive use of the armed forces.

Please outline the Colombian export control regime for weapons.

69. According to information provided by Industria Militar (INDUMIL), Colombia has not exported military material, with the exception of certain rifle suppliers, for the past 10 years.

70. Despite the above, article 57 of Decree No. 2535 of 1993 provides that only the National Government is entitled to import and export arms, munitions, explosives and accessories thereof, in accordance with the regulations issued by the National Government, through the Ministry of National Defence.

71. Article 19 of Regulatory Decree No. 1809 of 1994 provides that, for the purposes of article 57 of Decree No. 2535 of 1993, the National Government, through INDUMIL, may import and export arms, munitions and explosives for legal and natural persons that require them, subject to compliance with the following requirements:

A. Colombian or foreign legal persons must submit:

1. A reasoned application, including the following particulars:

(a) Type and quantity of the material to be imported (or exported);

(b) Port of shipment;

(c) Port of entry;

(d) Final destination (place of storage);

(e) Percentage concentration of explosives;

(f) Name of consignee;

(g) Name of exporter;

(h) Intended use of the material.

2. Proof of legal existence.

3. Approval granted by the competent military authority.

4. Approval granted by INDUMIL.

B Colombian or foreign natural persons must submit:

1. A written application, including the following:

(a) National police and military service records, and

(b) Approval granted by the Commander of the Brigade, Unit, Naval Base or Air Base where they live.

10. Subparagraph (b)

Why is the exchange of information with other countries for the purpose of countering terrorism and international crime in general restricted to information classified as non-confidential?

72. The exchange of classified information within the scope of Interpol is classified as "for police and judicial use exclusively," so as to serve two purposes, namely, so that foreign police can use it to initiate or pursue investigations, and so as to be useful in legal procedures under way.

73. Information is seldom labelled "confidential," the reason being to enable the officials of counterpart offices to verify such information openly with other authorities and to obtain more information on the case in question.

Please provide the CCT with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls designed to prevent the movement of terrorists.

74. With respect to mechanisms for inter-agency cooperation between the authorities responsible for monitoring financial operations, in particular border controls to prevent the movements of terrorists, information is currently being exchanged between such State bodies as the Ministry of Foreign Affairs, Civil Aeronautics, the DAS Immigration Division, the Directorate of National Taxes and Customs (DIAN), the Superintendence of Banks, and the Information and Financial Analysis Unit, for the purpose of halting the circulation, conversion and investment, in the Colombian financial system, of funds deriving from cross-border criminal activities.

75. At the same time, information is being shared with other bodies, such as Interpol and the intelligence agencies of countries with embassies in Colombia, with

a view to obtaining background information and tracking the movements of persons outside the law and to conducting joint operations at the international level.

11. **Subparagraph (c)**

Please keep the CTC informed about the progress of the proposed amendment to article 143 of the migration regulations.

76. Decree No. 1384 of 2002 modified Decree No. 2107 of 2001, which established provisions for the issuance of visas, and the control and regularization of foreigners, and for other immigration matters. Decree No. 1384 seeks to provide DAS with the necessary legal tools with which to carry out its duties as an immigration authority.

77. Those duties include the keeping of a registry for the identification of foreigners, so as to monitor foreign nationals who have been convicted but whose sentence does not involve expulsion from Colombian territory.

78. In that regard, Decree No. 1384 of 2002 establishes, first, that confidential DAS documents concerning foreign nationals shall cease to be considered confidential if they are requested by "the registree or by his relatives to the fourth degree of consanguinity, the second degree of affinity and the first degree of civil or conjugal union or properly accredited permanent companion." (Paragraph (a), of Decree No. 2107 of 2001, as modified by Decree No. 1384 of 2002)

79. A paragraph is also being added to article 118 of that Decree requiring the certificate granted to foreigners to be renewed every five years.

80. Lastly, a paragraph 10 is being added to Decree No. 2107 of 2001. This paragraph provides that when a sentence handed down against a foreign national does not envisage expulsion from the national territory as an accessory penalty, the Director of DAS can take a reasoned decision to order the expulsion of that person from Colombian territory.

12. **Subparagraph (d)**

The CTC notes the comment that the National Police acts in coordination with the police forces of neighbouring countries in order to share information and prevent acts of terrorism in border areas. Please outline what legislation or procedures exist to prevent terrorists acting from the Colombian territory against other States and their inhabitants.

81. The mechanisms mentioned operate within the framework of legal agreements between heads of State and ministers for foreign affairs, and their objective is to combine forces to fight against perpetrators of violence, by increasing levels of security, cooperation and mutual confidence between military institutions and international law enforcement bodies.

82. Meetings are held at which topics of a general nature are dealt with and confidential recommendations and understandings are formulated for the purpose of bolstering efforts to combat crime, each country operating within its own territory. The general topics cover such subjects as:

- Exchange of intelligence information

- Exchange of ideas and experiences with a view to fighting against perpetrators of violence
- Exchange of students and instructors for skills and training courses
- Simultaneous, coordinated military operations
- Exchange of publications of military interest
- Communication channels between military commands and military units
- Technical and logistical cooperation
- Mutual-confidence measures
- Combined civilian and military operations
- Situational evaluations of drug trafficking, terrorism, common crime and organized crime

83. Colombia has developed a series of mechanisms within the framework of the confidence-building measures and cooperation it has instituted with its neighbours and other countries of the region. Those mechanisms include: COMBIFRON (binational border commissions) with Ecuador and Venezuela; rounds of talks with Peru; bilateral intelligence meetings with Peru, Bolivia, Brazil and Chile, and regional border meetings with Brazil, Ecuador, Peru and Venezuela.

84. A confidential procedures manual is formulated for each of these meetings, setting out the working methods. The meetings allow for an exchange of information and the coordination of measures to confront such national security problems as terrorism and arms and drug trafficking.

85. The existing control mechanisms are:

(1) Meetings of defence ministers, which are aimed at strengthening trust and cooperation. To date, such meetings have been arranged with the defence ministers of adjacent bordering countries.

(2) Binational border commissions, a mechanism involving the armed forces of Ecuador and Venezuela. The mandate of the Binational Border Commission (COMBIFRON) is to evaluate and oversee compliance with military and police agreements relating to border security and to propose ways of identifying solutions to border problems and strengthening relations between military institutions.

(3) Rounds of talks between military high commands; currently, such discussions are taking place with the armed forces of Peru, and the holding of similar discussions with the armed forces of Brazil is being considered. Their objective is to promote security, cooperation and binational and regional friendship by building mutual trust.

(4) Bilateral intelligence meetings between the army intelligence directorates of Colombia and the majority of other South American countries, to discuss and analyse questions relating to subversion, drug trafficking, crime and other violence-generating phenomena. In addition, the intelligence directorates of the Colombian Navy and Air Force hold meetings with their counterparts throughout the region.

(5) Bilateral regional intelligence meetings at which border units discuss the problems they encounter, including subversion, narcoguerrilla warfare, drug trafficking, common crime, organized crime, smuggling and related matters.

86. Through the Interpol Subdirectorate and the Subdirectorate of Migration Affairs, DAS has the task of coordinating, with the offices of adjacent countries, information on suspected members of terrorist organizations present in Colombia who might be taking action against other States. This information is sent to other national authorities involved in combating terrorism.

87. Accordingly, requests for collaboration are constantly being received from other bodies, in accordance with guidelines established by Interpol, especially those contained in the new Guide for Combating International Terrorism.

88. Such surveillance involves not only persons but also merchandise entering the national territory. No institution or business is excluded, since unless all merchandise is inspected, weapons, munitions, explosives, dollars, and other contraband can find their way into the country.

89. DAS also carries out the following activities:

- Surveillance of cross-border migratory movements using DAS border posts at strategic points on the borders with all neighbouring countries.
- Information exchange between Colombian border posts and the immigration control offices of neighbouring countries.

90. The immigration posts of neighbouring countries provide information to DAS (Interpol) regarding persons suspected of having links to terrorist groups and intending to enter the country.

13. **Subparagraph (e)**

Please provide the CTC with a progress report on the draft act "*establishing measures to eliminate the crimes of kidnapping, terrorism and extortion and promulgating other measures.*"

91. On 29 January 2002, that draft legislation became Act No. 733 of 2002, which establishes measures to eliminate the crimes of kidnapping and extortion and promulgates other measures. The text of the Act is enclosed with this report.

What is the competence of the courts of Colombia to deal with criminal acts of each of the following kinds:

- **an act committed within Colombia by any person (whether that person is currently present in Colombia or not);**
- **an act committed outside Colombia by a person who is a citizen of, or habitually resident in, Colombia (whether that person is currently present in Colombia or not);**
- **an act committed outside Colombia by a foreign national who is currently in Colombia?**

92. The competence of the Colombian criminal courts to investigate criminal acts such as those cited in this question is defined in the following articles of the Penal Code:

"*Application of the penal law*

Territorial application of the penal law

Article 14. Territoriality. Colombian penal law shall apply to all persons that infringe it in the national territory, with the exceptions established in international law.

The punishable conduct is deemed to have occurred:

1. In the place where the action took place in whole or in part.

2. In the place where the action should have taken place but did not.

3. In the place where the result occurred or should have occurred.

Article 15. Territoriality by extension. Colombian penal law shall apply to any person who engages in punishable conduct on board a ship or aircraft belonging to the State while it is away from the national territory, with the exceptions established in international treaties or agreements ratified by Colombia.

It shall also apply to any person who engages in the conduct on board any other Colombian ship or aircraft while on the high seas, unless criminal proceedings have been initiated abroad.

Article 16. Extraterritoriality. Colombian penal law shall apply:

1. To any person who commits a crime abroad against the existence or security of the State, against the constitutional regime, against the economic and social order with the exception of the conduct defined in article 323 of this Code, or against the public administration, or who counterfeits the national currency or forges a public credit document or official seal, even if he has been acquitted or convicted abroad and given a lesser sentence than is provided for under Colombian law.

Time already served in prison shall, however, be deducted from the sentence.

2. To any person who is in the service of the Colombian State, enjoys immunity under international law, and commits the crime abroad.

3. To any person who is in the service of the Colombian State, does not enjoy immunity under international law, and commits abroad a crime other than those cited in paragraph 1, unless he has been tried abroad.

4. To any national to whom the preceding paragraphs do not apply and who is present in Colombia after having committed a crime on foreign soil, provided that the penalty under Colombian penal law is a term of imprisonment of at least two (2) years and that he has not been tried abroad.

In the case of a lesser penalty, prosecution must be initiated by, or at the request of, the Attorney-General.

5. To any foreigner to whom paragraphs 1, 2 and 3 do not apply and who is present in Colombia after having committed on foreign soil a crime against the

State or against a Colombian national that Colombian law punishes with a term of imprisonment of at least two (2) years, unless he has been tried abroad.

In such a case, prosecution must be initiated by, or at the request of, the Attorney-General.

6. To any foreigner who has committed on foreign soil a crime against a foreigner, if the following conditions apply:

(a) He is present on Colombian soil.

(b) In Colombia the crime is punishable by a term of imprisonment of at least three (3) years;

(c) The crime is not political, and

(d) A request for extradition has not been granted by the Colombian Government. If the extradition is not approved, a criminal trial shall be conducted.

In the case referred to in this paragraph, prosecution shall be initiated solely by, or at the request of, the Attorney-General and only if the case has not been prosecuted abroad.

Article 17. Foreign sentence. An acquittal or conviction pronounced abroad shall be considered res judicata for all legal purposes.

Sentences handed down abroad for the crimes dealt with in article 15 and article 16, paragraphs 1 and 2, shall not be deemed res judicata under Colombian law.

The penalty or part thereof that the convicted person has served under such sentences shall be deducted from any sentence imposed under Colombian law, if both are equal in nature. If not, the applicable conversions shall be calculated, by comparing the relevant legislation and consulting the guidelines for setting the penalty contained in this Code.

Article 18. Extradition. Extradition may be requested, granted or offered in accordance with public treaties or, failing that, with the law.

Moreover, extradition of native-born Colombians shall be granted for offences committed abroad which are considered as such in Colombian penal law.

Extradition shall not be granted for political crimes.

Extradition shall not be granted when the offences were committed prior to the promulgation of Legislative Act No. 01 of 1997."

14. Subparagraph (f)

Please describe the mechanisms developed by the Office of the Prosecutor-General to facilitate mutual judicial assistance with other countries.

93. Some aspects of international cooperation in criminal matters which illustrate the development of legislation by the Office of the Prosecutor-General are described below.

I. Legal structure

Definition of the legal system of international cooperation

94. Colombia has instituted a number of elements of juridical planning in the area of international cooperation, with a view to building a solid system of judicial assistance:

- Bilateral and multilateral treaties receive preferential implementation in the domestic legal order. The system provides that international norms take precedence over domestic legislation (Code of Criminal Procedure, article 499).
- Letters rogatory are governed by articles 503 and 506 of the Code of Criminal Procedure.
- Notes of request are dealt with in article 272 of the Code of Criminal Procedure, within the framework of the 1961 Vienna Convention on Diplomatic Relations.
- The Office of the Prosecutor-General relies on Resolution No. 0-0024 of 15 January 2002, under which the manual on national and international mutual legal assistance was issued.

II. Requests for assistance

Officials authorized to issue letters rogatory

95. In accordance with article 503 of the Code of Criminal Procedure, magistrates, judges and public prosecutors are authorized to issue letters rogatory in the course of criminal proceedings.

Transmission of requests for assistance to foreign authorities

96. Article 503 of the Code of Criminal Procedure provides that in order to determine the admissibility of the case, gather evidence and information or enlist any other kind of judicial assistance, magistrates, judges and public prosecutors may coordinate their efforts or communicate directly with foreign authorities or through legally approved channels.

97. In the specific case of international assistance involving the Office of the Prosecutor-General, pursuant to Resolution No. 0-0024 of 15 January 2002, under which the manual on national and international mutual legal assistance was issued, public prosecutors must render judicial assistance to the Directorate of International Affairs, the unit responsible for reviewing compliance with established provisions in requests for such assistance, and to initiate the relevant legal process through the most appropriate legal channels.

Legal channels of transmission

98. International assistance is afforded through the central authorities as determined for that purpose under existing agreements on bilateral cooperation in legal matters. In the case of Colombia, the Office of the Prosecutor-General has been designated as the central authority at the accusatory stage.

99. In some instances, when the subject matter permits, international letters rogatory are sent through the predetermined central authorities established under article 7 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed in Vienna.

100. The third possibility for the transmission of international requests for mutual judicial assistance is through the diplomatic channel, which is executed through the department responsible for Colombia's external communications in the Ministry of Foreign Affairs.

Procedure from the submission of the request for mutual legal assistance to transmission to the foreign authority

101. The request is drawn up and signed by the prosecutor seized of the matter and must fulfil the requirements as stated in the above-mentioned manual.

102. The request is submitted to the counterpart authority in the foreign country. When the judicial official has precisely determined through which of the three channels such assistance should be rendered, it will be handled accordingly.

103. Only when the request must be transmitted through the diplomatic channel does the public prosecutor attach certification concerning the performance of his duties, signed by his hierarchical superior.

104. The public prosecutor dealing with the matter sends the request for international legal assistance to the Directorate of International Affairs for review. If it complies with the requirements as stated in the manual on national and international mutual legal assistance, it is transmitted, depending on the specific case, to the central authority referred to in article 7 of the 1988 Vienna Convention, or to the central authority indicated in the agreement on bilateral judicial cooperation, or to the Ministry of Foreign Affairs of Colombia for the international request to be transmitted through the diplomatic channel to the competent authority in the requesting State.

III. Advice and monitoring

105. Among its functions, the Directorate of International Affairs in the Office of the Prosecutor-General provides advice to officials who either issue or respond to international requests.

106. The Directorate of International Affairs has a group of professionals who provide advice to the public prosecutors and are permanently engaged in monitoring the status of international cooperation.

107. The Directorate of International Affairs in the Office of the Prosecutor-General is the department through which all incoming and outgoing international requests are processed.

108. Each of these requests is reviewed by one of the professionals working in the Directorate. If that staff member determines that it is in compliance with legislative requirements, he will initiate the relevant proceedings with foreign authorities. If the request does not meet the necessary criteria established in the manual on national and international mutual legal assistance, it is immediately returned to the Office of

the Prosecutor-General for the necessary adjustments to be made and returned to the Directorate of International Affairs for the relevant procedure to be undertaken.

IV. Receipt of requests for assistance from foreign authorities

Receipt of requests for assistance from foreign authorities

109. The Directorate of International Affairs is the department responsible for receiving requests, executing proceedings and expediting international requests.

Execution of requests for assistance. Procedure.

110. Depending on the nature of the crime for which international assistance is requested, the Directorate of International Affairs notifies the relevant unit within the Office of the Prosecutor-General handling such offences.

111. The public prosecutor examines the request for international assistance and, if it does not run counter to the Constitution and the domestic legal order, proceeds to execute it.

Requests for international assistance which are sent directly to a public prosecutor

112. On a number of occasions the public prosecutors working in the Office of the Prosecutor-General have received requests directly from foreign judicial authorities.

113. In order to achieve efficient coordination with the requesting State and to maintain current institutional statistics, the manual on national and international mutual legal assistance requires that the Directorate of International Affairs should be informed of international letters rogatory which are sent directly to officials.

Requests for judicial assistance which are classified "urgent" by foreign authorities

114. As a member of the international community, the Office of the Prosecutor-General upholds the principle of good faith, and a request for international assistance that is designated "urgent" is therefore given highest priority.

115. An urgent request is immediately transmitted, personally or by fax, to the appropriate public prosecutor, who is informed of the urgency, so that the process is given preferential treatment.

What is the legal time frame within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or support of terrorist acts) must be met and how long does it actually take in practice to implement such a request in Colombia?

116. There is no established legal time frame within which a request for judicial assistance relating to the financing or support of terrorist acts must be met, nor is there a predetermined period for executing such requests. In each instance the specific nature of the evidence, the type of assistance requested, the country with which judicial assistance is being undertaken and other aspects must be taken into account.

117. It is important to underscore that the Office of the Prosecutor-General has created a flexible and well-coordinated internal structure. This allows for a successful outcome when foreign countries request evidence by means of one of the procedures handled by this Office.

118. With regard to the requests which this Office has submitted to various countries, avenues for individual contact with counterparts of the Directorate of International Affairs have been opened up, and over the past two years this has led to improved and timely responses to requests for international judicial assistance.

119. Judicial assistance from Colombia to other countries is rendered in a coordinated manner, but many of the processes initiated by the Office of the Prosecutor-General are adversely affected by the failure of those countries to respond.

120. For the most part, Latin American countries utilize the diplomatic channel in order to receive and execute international requests requiring their investigation, and this usually delays criminal proceedings.

121. It would be more effective for the central authorities designated under bilateral agreements to be approached directly.

122. Likewise, the expediency of directly approaching the predetermined central authorities designated under the Vienna Convention, on topics relating to drug trafficking, must be stressed.

123. The Office of the Prosecutor-General is eager to create, through the Directorate of International Affairs, direct contacts in order to achieve efficiency and flexibility in its cooperation efforts.

15. Subparagraph (g)

Please explain how the procedures for the issuance of identity papers and travel documents help prevent the counterfeiting, forgery or fraudulent use of those documents. What other measures exist to prevent their forgery?

124. The procedures for the issuance of identity papers and travel documents help to prevent the counterfeiting, forgery or fraudulent use of these documents by including the following safety precautions:

- Identity papers and travel documents have a number of security features which are not easily reproduced or simulated by a counterfeiter or a person wishing to present an authentic-seeming falsified document.
- The documents necessary for their issuance must be originals (requirements).
- Intermediaries are not permitted in either the processing or issuance of these documents; the applicant must appear in person.

125. The imposition of the penalty prescribed by our legal order serves as an effective tool to stem such practices, as do the controls exercised through internal audits conducted in various State bodies responsible for the processing of these documents.

126. The national identity card (*cédula*) is the document of identification issued to Colombians or naturalized foreigners when they reach the age of majority (18 years).

127. The security of the identity card for nationals provided by various governmental or legal mechanisms seeks to protect it from counterfeiting, forgery, duplication or simulation, in order to reassure the bearer and any entities wishing to verify the bearer's identity, and also to prevent criminal activity related to the fraudulent use of the card.

128. At the end of 1999, a technological modernization plan (PMT) was launched in the National Registry of Civil Status with a view to producing a national identity card of the highest quality and level of security. An automated fingerprint identification system (AFIS) was created, consisting of a systematized database for storing images and the biographical data of nationals requesting identity cards for the first time or duplicates or alterations within a specific time frame.

129. Procedures are in place under the new system to ensure the validity and legality of identity papers. Before being entered into the AFIS database, requests must be validated through existing archives in the National Registry in order to prevent duplications or replacements, since once entered into the system the data may not be modified.

130. The new identity card for nationals is made of imported material with high security features to prevent counterfeiting, forgery, duplication or simulation.

131. The security features of the new identity card are as follows:

- Background containing fine details with antiphotographic designs
- Soft, pastel colours to prevent reproduction by mechanical means (photocopying, photography, scanning)
- Security microtext which is not reproducible by mechanical means
- Reactive gold and silver inks (metameric pairs), verifiable by viewing with optical equipment and under ultraviolet light
- High-security holograms
- Two-dimensional bar code
- Processing code.

132. The procedures established for the issuance of identity and travel documents help to prevent the counterfeiting, forgery and illegal use of these documents.

133. The process for issuing passports entails three basic steps which allow for greater control:

- Review of documentation,
- Preparation of the passport, and
- Signature of the passport by the issuing authority.

134. Once a year, the Ministry of Foreign Affairs sends officials to the offices which issue passports in Colombia in order to verify that these offices are

complying with the rules, agreements and instructions, and to take corrective action where necessary.

135. Punishable offences which are detected at the offices issuing passports are reported to the judicial authorities.

136. Since last January work has been undertaken to formulate a passport decree taking recent international developments into account. Since July 2001, a passport in a new format has been in circulation, incorporating pre-Colombian motifs and other features, such as the use of oil-based and fluorescent inks, microtext, which apart from promoting pre-Hispanic culture, also offers enhanced security to prevent forgery.

137. In order to receive the identity card for foreign nationals, the applicant must appear in person. This document has security features such as an overlay (glossy strip, visible when observed under a light) and a chip on the reverse side of the card which, when passed through a reader, shows personal data, including a fingerprint, signature and photograph of the bearer.

138. In processing the entry and exit of travellers at Colombian international airports and at some inland, maritime and river ports, an information system containing data on nationals sought by the Colombian judicial authorities and those recorded in the Interpol database has been established. This allows for coordination between the Office of the Prosecutor-General and the foreign authorities.

139. Since the tragic events of 11 September 2001, the General Secretariat of Interpol has adopted a new strategy in the fight against international terrorism, which includes the establishment within the Secretariat of a special group called the "11 September Task Force". The Task Force works 24 hours a day on coordinating intelligence with member States on persons, organizations and others which may be linked to the attacks. Similarly, it has recently created a watch list on terrorism, and databases to exchange, with participating countries and authorized users, current information on stolen passports and persons listed in the red and green notices, and disseminate information on terrorist acts and activities. The Interpol Secretariat will shortly set up a page on its web site to facilitate such coordination.

140. Interpol's work to combat terrorism covers all criminal activities which may in some way be linked to terrorist acts, and the Interpol machinery remains at the service of all national organizations involved in the fight against various forms of crime.

Please describe the coordination mechanism aimed at preventing the movement of terrorists across State borders that exists with neighbouring countries in security and border control matters.

141. The coordination mechanisms aimed at preventing the movement of terrorists across State borders with neighbouring countries in security and border control matters are as follows:

- Permanent liaison with Interpol and with embassies of neighbouring countries located in Bogotá, as well as with Colombian embassies in other countries;
- Coordination with the Administrative Department of Security (DAS) in connection with the documentation of foreigners;

- Coordination and permanent liaison with the Ministry of Foreign Affairs and with consulates in Colombia.

142. DAS, through the Subdirectorate of Migration Affairs, controls ports and airports and has specially trained personnel who are able to scrutinize a document and ascertain whether it is authentic or has been stolen, altered or forged. The specific controls that DAS continues to exercise in this area include:

(a) Systematization of migration controls at authorized ports where, through an information network, data on migration are recorded and transmitted to the central authorities. This system is supported by the database containing information on arrest warrants, measures to prevent persons from leaving the country, requests from Interpol and reports on the loss or theft of passports at the national and international levels. This database is being updated to include information concerning recognized members of international terrorist organizations;

(b) Inspection of documents at the principal ports of migration control, carried out by documentation specialists and handwriting experts with a view to detecting forgeries;

(c) Monitoring of passengers by trained personnel so as to catch those who violate Act No. 30 of 1986 or who are carrying forged documents;

(d) Non-admittance or rejection, upon their arrival in the country, of foreign nationals who are found liable on any of the grounds for non-admittance set forth in migration legislation. Over the past three years, a total of 1,228 persons have been denied entry into Colombia for:

- Trafficking or having trafficked in narcotics, hallucinogenic drugs or any other similar substance;
- Having cases pending for offences that are punishable by imprisonment;
- Attempting to enter the country with forged documents or without the legally required documentation;
- Having left Colombian territory without passing through migration controls.

143. The Subdirectorate of Migration Affairs keeps a database of stolen documents which it will share with Interpol in order to comply with a provision of the Interpol General Secretariat regarding the creation of a database of stolen, altered and forged documents. This service will be supplemented with other national databases.

144. Information is verified and exchanged with liaison officers accredited in Colombia, who help obtain data in highly urgent cases. They also identify institutional requirements and provide training and logistical support in a number of areas.

145. DAS-Interpol in Colombia exercises controls and coordinates actions with the counterpart offices, in accordance with the regulations of the organization. Once information is obtained, a message is sent to the country concerned and, when necessary, telephone contact is made in order to expedite assistance. If a neighbouring country requests data on potential cross-border terrorists, the necessary connection is set up with other State security agencies in order to follow up or determine whether there are data on file that might be useful in identifying or pursuing the target.

146. In the case of Venezuela, cooperation with Interpol in Caracas is excellent. Contacts are made by fax or telephone, depending on the urgency of the situation.

Bilateral meetings

147. The following are the main bilateral mechanisms implemented by Colombia with neighbouring countries:

- As mentioned earlier, binational border committees (COMBIFRON) have been set up with Venezuela and Ecuador. The possibility of setting up a COMBIFRON with Panama is under consideration.
- In the case of Peru, a Colombia-Peru high-level mechanism on security and legal cooperation has been set up, and meetings have been held with high-level military commands.
- As regards Brazil, talks are being held with the military high commands, and measures are being taken to foster mutual trust between the military forces of Colombia and the armed forces of Brazil.
- A meeting on Colombian-Jamaican security matters was held in April 2001. At that meeting, an agreement on maritime operational cooperation and an operational agreement on police cooperation between the Ministry of National Defence of Colombia and the Ministry of National Security of Jamaica were signed.

IV. Paragraph 3

16. Subparagraph (a)

17. Subparagraph (b)

18. Subparagraph (c)

With which countries has Colombia entered into bilateral treaties on extradition and mutual legal assistance?

148. In addition to the multilateral treaties to which it is a party, Colombia has signed bilateral treaties on extradition and legal assistance, as follows:

Bilateral extradition treaties

1. Extradition Treaty between Colombia and Belgium, signed at Brussels on 21 August 1912, ratified by Act No. 74 of 1913. The instruments of ratification were exchanged on 22 April 1914.

1.1 Additional Convention to the Extradition Treaty between the Republic of Colombia and the Kingdom of Belgium, signed in Bogotá on 21 November 1931, ratified by Act No. 47 of 1935. The instruments of ratification were exchanged in Brussels on 30 June 1937.

1.2 Additional Convention to the Extradition Treaty done at Brussels on 21 August 1912, signed in Bogotá on 24 February 1959, ratified by Act No. 14 of 1961 and published in *Diario Oficial* No. 30493 of 1961. The convention entered into force on 13 May 1968.

2. Extradition treaty between the Republic of Colombia and the United States of Brazil, signed in Rio de Janeiro on 28 December 1938 and ratified by Act No. 85 of 1939. The instruments of ratification were exchanged in Rio de Janeiro on 2 September 1940. The treaty entered into force on 2 October 1940.

3. Extradition Treaty between the Republic of Colombia and the Republic of Chile, signed in Bogotá on 16 November 1914, ratified by Act No. 8 of 1928 and published in *Diario Oficial* No. 20823. The instruments of ratification were exchanged in Bogotá on 4 August 1928. The treaty entered into force on 4 August 1929.

4. Extradition Treaty between Colombia and Costa Rica, signed in San José on 7 May 1928, ratified by Act No. 19 of 1931 and published in *Diario Oficial* No. 21617. The instruments of ratification were exchanged in San José on 13 May 1931, on which date the treaty entered into force.

5. Extradition Treaty between Colombia and Cuba, signed in Havana on 2 July 1932, ratified by Act No. 16 of 1932 and published in *Diario Oficial* No. 22111. The instruments of ratification were exchanged in Havana on 15 October 1936, on which date the treaty entered into force.

6. Convention on Extradition between Colombia and the Kingdom of Spain, signed in Bogotá on 23 July 1892, ratified by Act No. 35 of 1892, published in *Diario Oficial* No. 9207. The instruments of ratification were exchanged in Bogotá on 17 June 1893, on which date the convention entered into force.

6.1 Exchange of notes constituting an agreement relating to the operation of the Convention on Extradition between Colombia and Spain of 23 July 1892 and of the Single Convention of 1961. Signed in Madrid on 19 September 1991. According to Note Verbale No. 161/92 of 23 June 1992 from the Embassy of Spain, the agreement entered into force on 25 May 1992.

7. Extradition Treaty between Colombia and Guatemala, signed in Guatemala on 24 November 1928, ratified by Act No. 40 of 1930.

8. Extradition Treaty between Colombia and Mexico, signed in Mexico on 12 June 1928, ratified by Act No. 30 of 1930, published in *Diario Oficial* No. 21539. The instruments of ratification were exchanged in Mexico on 1 July 1937, on which date the treaty entered into force.

9. Treaty of Extradition with Nicaragua, signed in Managua on 25 March 1929, ratified by Act No. 39 of 1930, published in *Diario Oficial* No. 21550. The instruments of ratification were exchanged in Bogotá on 15 July 1932. The treaty entered into force on 15 August 1932.

10. Extradition Treaty with Panama, signed in Panama on 24 December 1927, ratified by Act No. 57 of 9 October 1928, published in *Diario Oficial* No. 20919. The instruments of ratification were exchanged in Panama on 24 November 1928. The treaty entered into force on 24 December 1928.

11. Extradition Convention with Peru, signed in Lima on 10 February 1870, published in *Diario Oficial* Nos. 1887 and 2892, of April and June 1870. The instruments of ratification were exchanged in Lima on 13 March 1873, on which date the convention entered into force.

12. Extradition Treaty between the Republic of Colombia and Great Britain, signed in Bogotá on 27 October 1888, ratified by Act No. 148 of 1888. The instruments of ratification were exchanged in Bogotá on 21 August 1889, on which date the treaty entered into force.

12.1 Supplementary Convention to the Extradition Treaty between Colombia and Great Britain signed in Bogotá on 2 December 1929, ratified by Act No. 15 of 1930, published in *Diario Oficial* No. 21521. The instruments of ratification were exchanged in Bogotá on 5 November 1930, on which date the treaty entered into force.

NOTE: In conformity with the principle of succession of States, the Extradition Treaty and the Supplementary Convention between Colombia and Great Britain are applicable to the Republic of Fiji, given that, by means of an exchange of notes dated 14 July and 9 November 1972, this country, as an independent republic, expressed to the Government of Colombia its desire to be a party to them.

13. Mutual Extradition Convention between Colombia and France, signed in Bogotá on 9 April 1850, entered into force on 12 May 1852.

14. Mutual Extradition Convention between the Republic of Colombia and the Republic of El Salvador. San Salvador, 24 December 1900. Ratified by Act No. 64 of 30 April 1905, published in *Diario Oficial* No. 12365.

Bilateral agreements on judicial assistance in criminal matters

Title of agreement	*Place and date*	*Entry into force*	*Act*
Convention of judicial cooperation in criminal matters between the Republic of Colombia and the Kingdom of Spain	Bogotá, 29 May 1997	1 December 2000	451/98 4 August 1998
Convention on mutual judicial assistance in criminal matters between the Government of the Republic of Colombia and the Government of the French Republic	Paris, 21 March 1997	1 April 2000	453/98 4 August 1998
Agreement on judicial cooperation in criminal matters between the Government of the Republic of Colombia and the Government of the Republic of Paraguay	Bogotá, 31 July 1997	23 October 1999	452/98 4 August 1998
Agreement on judicial assistance in criminal matters between the Republic of Colombia and the Republic of Peru	Lima, 12 July 1994	9 December 1999	479/98 22 October 1998
Agreement on judicial assistance in criminal matters between the Republic of Colombia and the Argentine Republic	Buenos Aires, 3 April 1997	1 February 2001	492/99 21 January 1999
Agreement on cooperation in matters of legal assistance between the Government of the Republic of Colombia and the Government of the United Mexican States	Mexico City, 7 December 1998	4 June 2001	569 of 2000
Agreement on cooperation and judicial assistance in criminal matters between the Government of the Republic of Colombia and the Government of the Republic of Venezuela	Caracas, 20 February 1998	1 February 2001	567 of 2 February 2000
Agreement on legal assistance and mutual judicial cooperation between the Government of the Republic of Colombia and the Republic of Panama	Panama City, 19 November 1993	10 October 1999	450 of 4 August 1998
Agreement on judicial cooperation and mutual assistance in penal matters between the Republic of Colombia and the Federative Republic of Brazil	Cartagena de Indias, 7 November 1997	29 June 2001	512 of 1999
Agreement on judicial cooperation and mutual assistance in penal matters between the Republic of Colombia and the Republic of Ecuador	Bogotá, 16 December 1996	26 July 2001	519 of 1999

Title of agreement	*Place and date*	*Entry into force*	*Act*
Agreement between the Government of the Republic of Colombia and the Government of the United Kingdom of Great Britain and Northern Ireland concerning mutual assistance in relation to criminal matters	London, 11 February 1997	Great Britain has not notified its compliance with requirements	462 of 4 August 1998
Agreement between the Government of the Republic of Colombia and the Government of the Republic of Cuba concerning mutual legal assistance in relation to criminal matters	Havana, 13 March 1998	3 November 2001	593 of 14 July 2000
Agreement on judicial cooperation in criminal matters between the Republic of Colombia and the Eastern Republic of Uruguay	Bogotá, 17 February 1998	Note sent to the Embassy of Uruguay concerning the date of exchange of instruments	568 of 2 February 2000
Agreement between the Government of the Republic of Colombia and the Government of the Dominican Republic on mutual assistance in criminal matters	Santo Domingo, 27 June 1998	Not in force	630 of 27 December 2000
Treaty between the Republic of Colombia and the People's Republic of China on judicial assistance in criminal matters	Beijing, 14 May 1999	Not in force	Pending Bill 160/2001

With which countries has Colombia concluded the bilateral instruments which make it possible to take concerted action against terrorism mentioned in paragraph 111 of the report. Please outline in detail the content of such an agreement.

149. In February 1998, the Ministers for Foreign Affairs of Colombia and Peru exchanged diplomatic notes constituting an agreement whereby the competent public authorities meet periodically to establish cooperation and coordination mechanisms in the areas of security, compatibility and adoption of measures in their counter-terrorism legislation and to ensure a continuing and fluent exchange of information. Copies of those notes have been enclosed with this report.

150. Other than the above, there is no specific bilateral treaty on combating terrorism to which Colombia is currently a signatory. It should be noted however that the agreements on cooperation and judicial assistance in criminal matters currently in force suffice for the purposes of combating terrorism.

151. In addition, domestic legislation establishes the mechanism by which juridical assistance may be provided in cases where no specific treaty exists for that purpose. That mechanism is set out in volume V, section I, chapters I and II, of Act No. 600 of 2000, Code of Criminal Procedure, which regulates judicial assistance arrangements between Colombian and foreign competent authorities.

152. On 17 June 2002, Colombia joined with Bolivia, Ecuador, Peru and Venezuela in signing the Lima commitment or Andean charter for peace and security: limitation and control of expenditure on external defence. Section IV of this charter includes a regional commitment to combat terrorism whereby the countries undertake to:

- Intensify national counter-terrorism activities undertaken pursuant to Security Council recommendations, in particular resolution 1373 (2001), the Inter-American Convention against Terrorism adopted on 3 June 2002 and the Galápagos Declaration: Andean Agreement on Peace, Security and Cooperation of 18 December 1989;
- Adopt such additional measures as may be necessary to prevent terrorist acts, such as providing early warning to the relevant authorities and the exchange of information;
- Continue combating transnational crime, in particular such terrorism-related activities as illegal drug trafficking, money-laundering and the illicit arms traffic.

153. At the regional level, Colombia, as a member of the Inter-American Committee on Terrorism, helps to achieve that body's objectives, which are:

- Improving information exchange on terrorism-related matters;
- Compiling legislation, agreements, conventions and laws; compiling bilateral, subregional and multilateral treaties and agreements concluded by member States and promoting universal accession to international counter-terrorism conventions;
- Strengthening cooperation at borders as well as security measures relating to travel documents.

Colombia is a party to the Plan of Action on Hemispheric Cooperation to Prevent, Combat and Eliminate Terrorism, under which ministers and heads of delegation of the member States of the Organization of American States (OAS), meeting in Lima, Peru on the occasion of the Inter-American Specialized Conference on Terrorism, established joint measures to combat terrorism.

154. Colombia chaired the subgroup on financial affairs of the Inter-American Committee on Terrorism, whose final report in November 2001 made a series of recommendations to States with a view to intercepting funds generated through or deriving from terrorist activities.

19. Subparagraph (d)

The Counter-Terrorism Committee would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on:

- **the steps being taken to become a party to the instruments to which Colombia is not yet a party (including the International Convention against the Taking of Hostages and the International Convention for the Suppression of Terrorist Bombings);**

- **the enactment of legislation, and the making of other necessary arrangements, to implement the instruments to which it has become a party.**

155. A list of the international counter-terrorism conventions and their current status is provided below:

Treaties relating to terrorism — formalities under way

Instrument	*Enacting law or bill*	*Current status*
International Convention against the Taking of Hostages. General Assembly of the United Nations, 17 December 1979	Bill No. 226/02 Senate	Under review in the Congress of the Republic (passed by the Senate, currently before the House of Representatives). Once approved by both Congress and the President of the Republic, it will be sent for constitutional review with a view to subsequent ratification
Convention on the Physical Protection of Nuclear Material. Vienna, 3 March 1980	Act No. 728 of 27 December 2001	Under constitutional review. Once the Constitutional Court has issued its opinion, the national Government may proceed to ratification
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 23 September 1971. Montreal, 24 February 1988	Bill No. 224/02	Already approved in the Senate and House of Representatives, awaiting presidential approval and constitutional review for ratification
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Rome, 10 March 1988	Bill No. 225/02	Under review in the Congress of the Republic (passed by the Senate, currently before the House of Representatives). Once approved by both Congress and the President of the Republic, it will be sent for constitutional review with a view to subsequent ratification

Instrument	*Enacting law or bill*	*Current status*
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Rome, 10 March 1988	Bill No. 225/02	Under review in the Congress of the Republic (passed by the Senate, currently before the House of Representatives). Once approved by both Congress and the President of the Republic, it will be sent for constitutional review with a view to subsequent ratification
Convention on the Marking of Plastic Explosives for the Purpose of Detection. Montreal, 1 March 1991	Bill No. 222/02	Under review by the Congress of the Republic (passed by the Senate, currently before the House of Representatives). Once approved by both Congress and the President of the Republic, it will be sent for constitutional review with a view to subsequent ratification
International Convention for the Suppression of Terrorist Bombings. New York, 15 December 1997	Bill No. 227/02	Under review in the Congress of the Republic (passed by the Senate, currently before the House of Representatives). Once approved by both Congress and the President of the Republic, it will be sent for constitutional review with a view to subsequent ratification
International Convention for the Suppression of the Financing of Terrorism. New York, 9 December 1999	Bill No. 223/02	Under review by the Congress of the Republic (passed in the Senate, currently before the House of Representatives). Once approved by both Congress and the President of the Republic, it will be sent for constitutional review with a view to subsequent ratification

156. In addition, Colombia was a member of the working group to negotiate an Inter-American Convention against Terrorism, established by the Permanent Council of the Organization of American States (OAS), which concluded its negotiations in March. During the thirty-second session of the OAS General Assembly, Colombia signed the Convention. The Government is currently finalizing arrangements with a

view to submitting the enacting legislation to Congress during the current legislative session.

157. The following domestic rules for implementation of instruments to which Colombia is a party should also be noted:

- Act No. 14 of 1972 added a chapter entitled "Crimes against air security" to volume II, section VIII, of the Colombian Penal Code, besides supplementing the preliminary provisions of that Code. The chapter in question imposes a sentence of between 10 and 15 years' imprisonment for a person who, while on board an aircraft in flight, illegally, through the use of violence or any other form of intimidation, takes over or takes effective control of that aircraft. The chapter also lists the aggravating circumstances for the sentence.

- The new Code of Criminal Procedure, which deals, in section III with crimes against individual freedom and similar offences, and establishes, in relation to the hijacking of aircraft, ships or any means of public transportation, that any person who, through violence, threats or deceptive manoeuvres, takes over a ship, aircraft or any other means of public transportation or changes its itinerary or takes control thereof shall, by that act alone, be liable to a term of imprisonment of between ten (10) and fifteen (15) years and a fine of between one thousand (1,000) and three thousand (3,000) times the current minimum statutory monthly wage (art. 173). The sentence is increased by one half to three quarters in cases where the passengers are not allowed to disembark at the earliest opportunity.

- Act No. 195 of 1995, which incorporated in our domestic legislation the measures contained in the OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance.

- Act No. 504 of 1999, which broadened the jurisdiction of criminal judges of the specialized circuit, enabling them to try cases involving various types of terrorism-related offences in criminal proceedings.

- Act No. 599 of 2000, which enacted the new Code of Criminal Procedure. The Code entered into force in July 2001 and contains the criminal provisions adopted in recent years with regard to acts linked to terrorism. Article 144 of that Act specifies that any person who, during the course of an armed conflict, undertakes or orders indiscriminate or excessive acts, or targets the civilian population for attacks, reprisals, violence or threats for the main purpose of terrorizing them shall, by that act alone, be liable to a term of imprisonment of between fifteen (15) and twenty-five (25) years, a fine of between two thousand (2,000) and forty thousand (40,000) times the current minimum statutory monthly wage and shall be banned from exercising any public rights or functions for a period of between fifteen (15) and twenty (20) years.

- Act No. 600 of 2000 enacted a new Code of Criminal Procedure which enables criminal judges of the specialized circuit to try crimes of terrorism and related acts.

158. The Presidential Directive on a strategy to combat terrorism, of 2 May 2002, defines measures for restricting terrorist groups' activities and increase the ability of

the State to defend human rights and make use of and strengthen international instruments aimed at combating terrorism.

20. Subparagraph (e)

Have the offences set forth in the relevant international conventions been included as extraditable offences in the bilateral treaties to which Colombia is a party?

159. Even though Colombia has not concluded any extradition treaties that relate specifically to terrorism, this does not mean that extradition is ruled out. We consider that there are at least three circumstances in which terrorists can be extradited.

160. First, there are cases where Colombia has signed a bilateral extradition treaty which is in force and which does not include a list of offences. In this situation, the formal and substantial presumptions of the specific case should be compared with the presumptions in the treaty in order to determine whether implementation of the extradition procedure is permitted using this channel.

161. Second, cases may arise in which a bilateral extradition treaty signed by Colombia is in force and contains a list of offences that does not include terrorism, while, at the same time, the two signatories are also parties to a multilateral convention in which terrorism is included as an extraditable offence. In this situation, it would be understood that terrorism was included in the list of offences of the bilateral treaty, and the extradition procedure for terrorism would be executed using this channel.

162. In the third instance, domestic legislation establishes the mechanism available for extradition procedures when no specific treaty exists. This mechanism is established in volume V, section I, chapter III of the Code of Criminal Procedure. It is a procedure of domestic law to which other States may agree, once they have complied with the legal requirements, particularly those stipulated in article 511 of the Code of Criminal Procedure concerning classification, nature, the quantum of the penalty and the existence of an affirmative ruling on admissibility, or its equivalent.

21. Subparagraph (f)

What are the mechanisms mentioned in paragraph 115 of the report which can ensure that the Ministry of Foreign Affairs of Colombia will not grant refugee status to persons who have "*planned, facilitated or participated in the commission of terrorist acts*"? Are those mechanisms already outlined in paragraph 116 of the report and governed by Decree 1598 of 1995, which may be revised in order to improve such mechanisms (paragraph 118 of the report)?

163. The mechanisms mentioned in paragraph 115 of the report submitted by Colombia are outlined in paragraph 116, but not all of them are governed by Decree No. 1598 of 1995. The procedure in (c) falls within the terms of reference of the current Visa and Immigration Coordination Unit, attached to the Department of Consular Affairs and Colombian Communities Abroad of the Ministry of Foreign Affairs. The specific function of investigation is the responsibility of the Administrative Department of Security (DAS).

164. Basically, the procedure is that the Ministry of Foreign Affairs conducts a careful study of the application for refugee status, during which it examines thoroughly any factors relating to the applicant's legal status and human rights situation, and also to the political situation of the country of origin. We should emphasize that the interview constitutes an essential tool for evaluating an application for refugee status, since it gives a greater degree of certainty about the truth of the facts provided by the applicant. It is considered advisable that experts in the field and also a psychologist take part in the interview.

165. In the quest for appropriate mechanisms to examine the applicant, it must be ensured that the refugee status will not be used illegally. To this end, cooperation with other countries will be encouraged. Prompt accession to international conventions and protocols relating to terrorism is also necessary as an additional mechanism in this regard.

166. It is worth indicating that the Convention (article 1, (E) and (F)) and the Protocol relating to the Status of Refugees place emphasis on the background of the applicant for refugee status but at the same time provide for cases when this is not applicable, provisions which Colombia faithfully observes whenever they are relevant.

167. A draft decree is being examined that establishes the procedure to determine refugee status and adopts norms for the advisory committee to determine refugee status, as well as other provisions. The Ministry of Foreign Affairs is working on this with the support of DAS.

22. Subparagraph (g)

The CTC has taken note of the withdrawal of the Colombian reservations to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 and mentioned in paragraph 112 of the report.

Do the provisions of the relevant international conventions relating to extradition take precedence over constitutional provisions prohibiting extradition for political crimes?

168. The question of extradition is regulated by article 35 of the Political Constitution, as amended by Legislative Act No. 01 of 1997, as follows:

> *"Article 35: Extradition may be requested, granted or offered in accordance with public treaties or, failing that, with the law.*
>
> *"Moreover, the extradition of native-born Colombians shall be granted for offences committed abroad which are considered as such in Colombian criminal legislation. The law shall regulate the matter.*
>
> *"Extradition shall not be granted for political crimes.**
>
> *Extradition shall not be granted when the offences were committed prior to the promulgation of this regulation."(*Underlining added).*

169. No international treaty can override the above provision of our Constitution prohibiting extradition for political crimes.

170. In addition to the adoption of the relevant law by the National Congress and to presidential approval, the procedure for ratifying an international treaty requires the Constitutional Court to ensure that the law endorsing the treaty can be executed. Thus, an international instrument that contravenes the higher-ranking provision mentioned above would be declared unconstitutional by the Court.

171. Therefore, Colombia has not signed any instruments of public international law that oblige it to grant extradition to individuals under investigation or convicted for political or related crimes.

172. Article 18 of Act No. 599 of 2000, "which promulgates the Penal Code", basically transcribes the same constitutional norm. Act No. 600 of 2000 (arts. 508 and ff.), "which promulgates the Code of Criminal Procedure", establishes the administrative judicial procedure of this institution, with precise indications regarding the competence of the different authorities at each stage of the procedure.

173. It should be pointed out that, in order to deliver a ruling when examining extradition procedures, the Criminal Appellate Division of the Supreme Court of Justice must take into consideration, among the presumptions of law, those indicated in article 520 of the Code of Criminal Procedure, which states:

> "*Article 520. Grounds. The Supreme Court of Justice shall base its ruling on the strict validity of the documentation produced, the conclusive demonstration of the identity of the person whose extradition is requested, the principle of double jeopardy, the equivalence of the order granted in the other country and,* when applicable, on the provisions of public treaties."

174. If the Supreme Court delivers a negative ruling in the extradition procedure, it is binding on the Executive.

Are there any domestic legislative provisions in place in order to ensure that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists?

175. No. As we have explained above, the 1991 Constitution was amended by Legislative Act No. 01 of 1997 in order to permit the extradition of Colombian nationals.

176. From the foregoing, it is clear that the Colombian legal order does not permit extradition for political crimes.

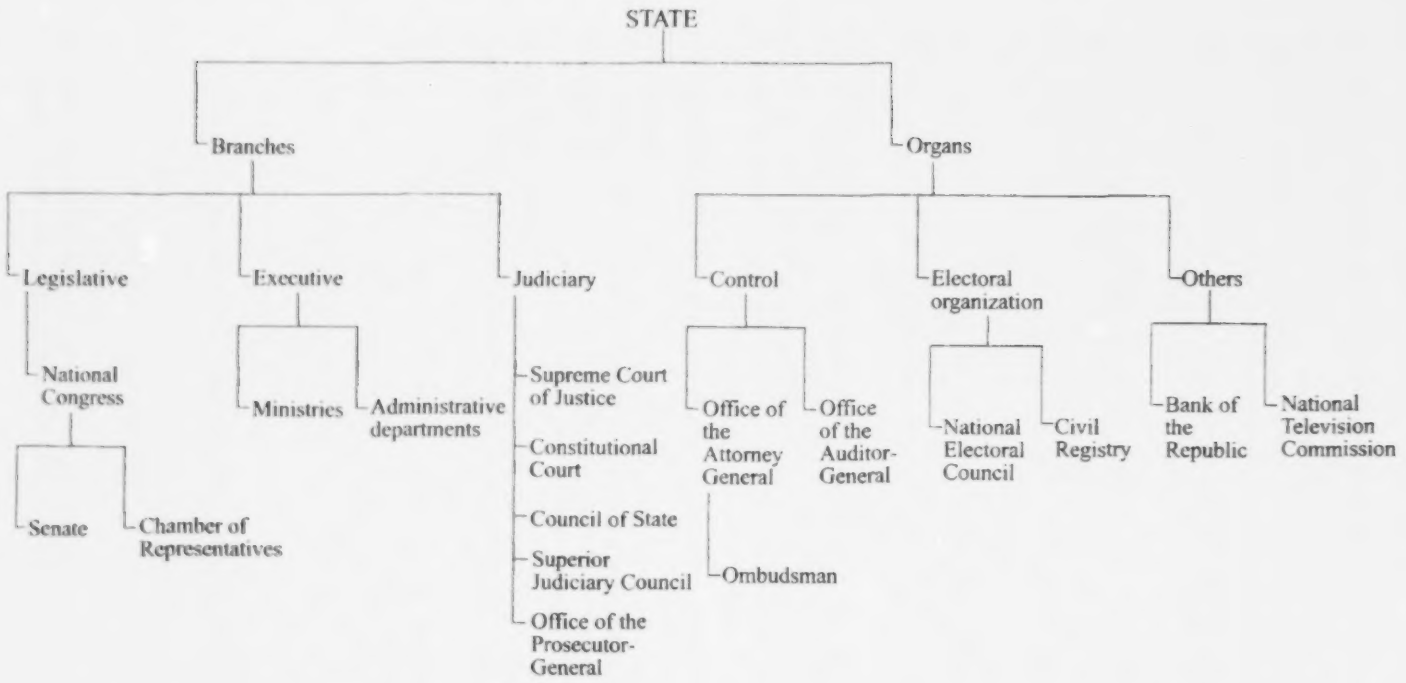
IV. Paragraph 4

Other matters

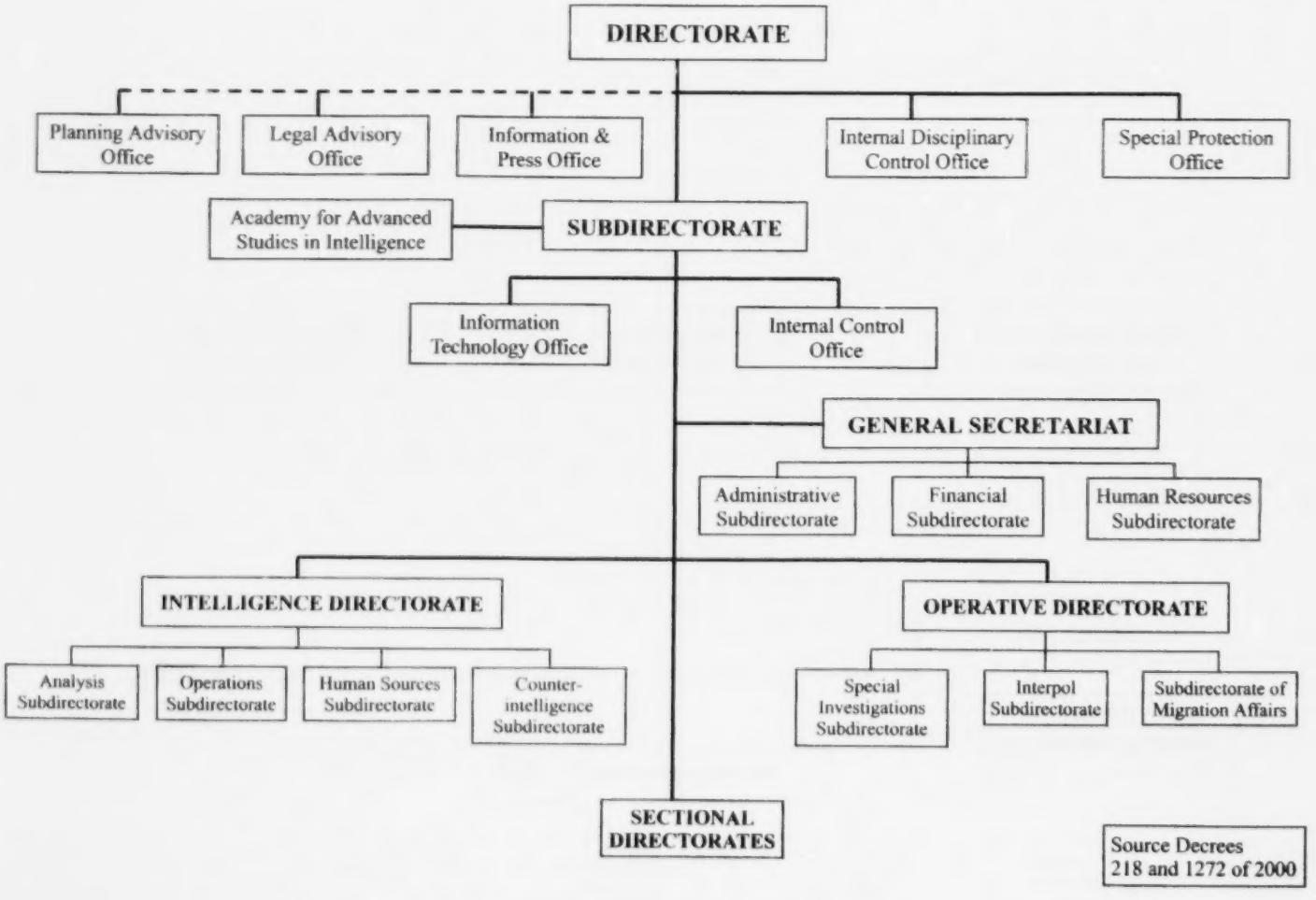
Could Colombia please provide an organizational chart of its administrative machinery, such as police, immigration control, taxation and financial supervision authorities established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution?

177. The overall organizational chart of the Colombian State is attached, together with the charts of some of the national bodies involved in countering terrorism.

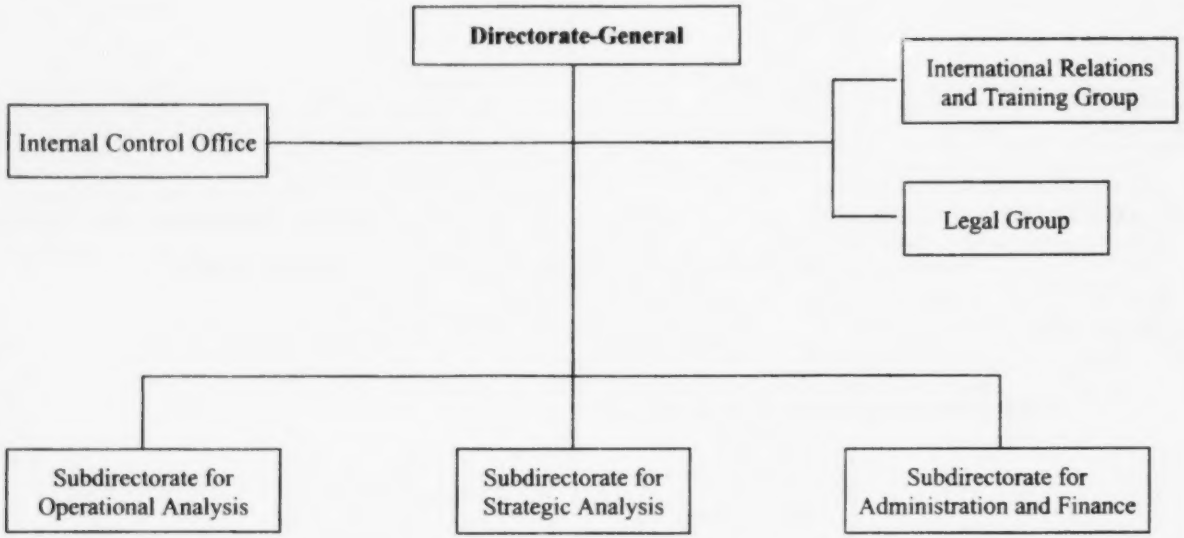
BASIC MACHINERY OF THE COLOMBIAN STATE



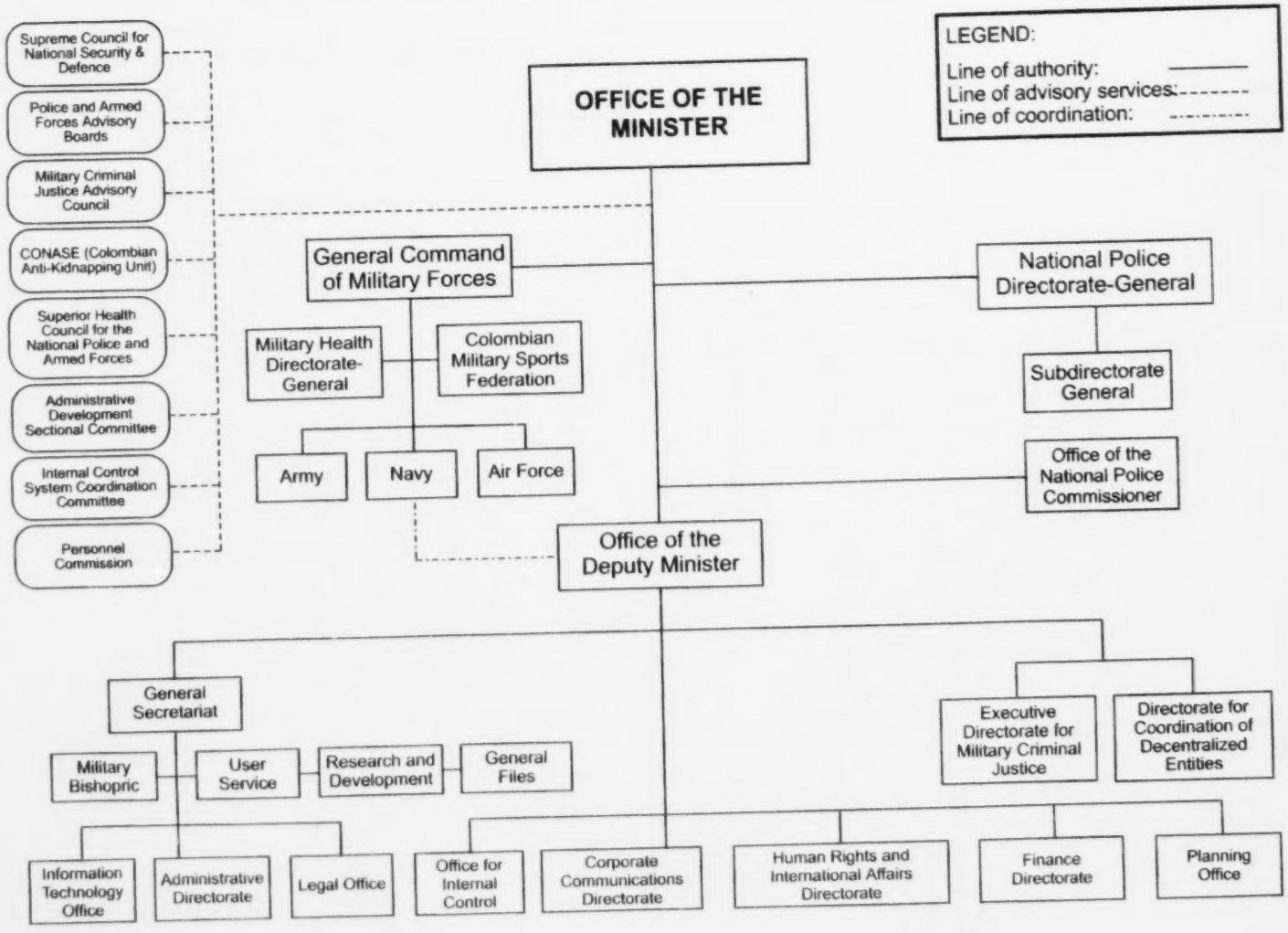
ORGANIZATIONAL CHART OF THE ADMINISTRATIVE DEPARTMENT OF SECURITY (DAS)



ORGANIZATIONAL CHART OF THE SPECIAL ADMINISTRATIVE UNIT FOR FINANCIAL ANALYSIS



ORGANIZATIONAL CHART OF THE MINISTRY OF DEFENCE



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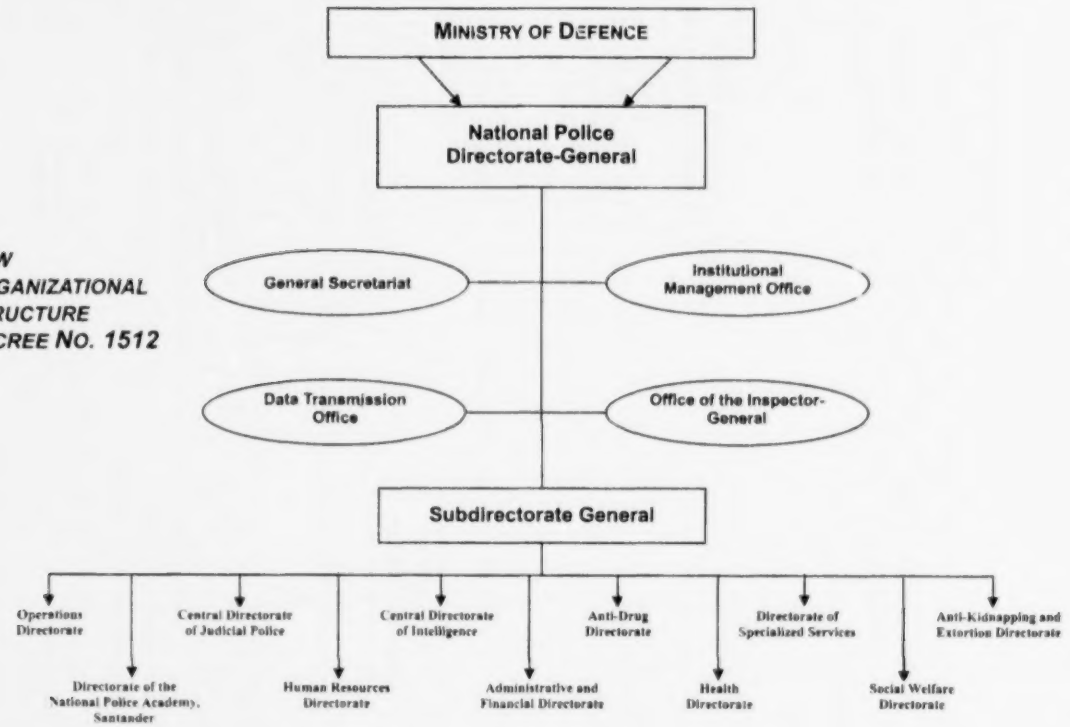
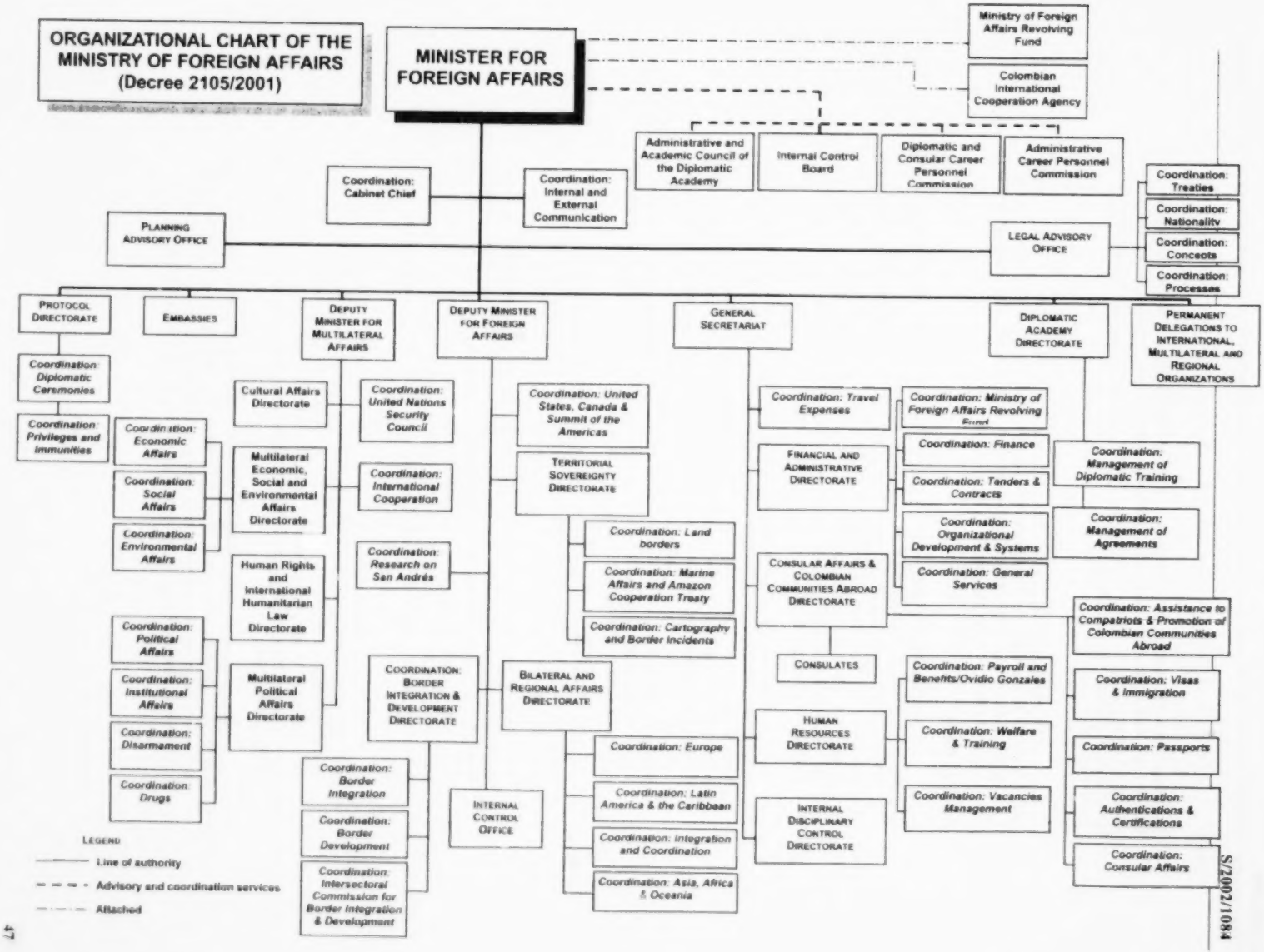
ORGANIZATIONAL CHART OF THE NATIONAL POLICE

NEW ORGANIZATIONAL STRUCTURE DECREE NO. 1512




ORGANIZATIONAL CHART OF THE MINISTRY OF FOREIGN AFFAIRS (Decree 2105/2001)
MINISTER FOR FOREIGN AFFAIRS
Ministry of Foreign Affairs Revolving Fund
Colombian International Cooperation Agency
Administrative and Academic Council of the Diplomatic Academy
Internal Control Board
Diplomatic and Consular Career Personnel Commission
Administrative Career Personnel Commission
Coordination: Cabinet Chief
Coordination: Internal and External Communication
Coordination: Treaties
Coordination: Nationality
Coordination: Concepts
Coordination: Processes
PLANNING ADVISORY OFFICE
LEGAL ADVISORY OFFICE
PROTOCOL DIRECTORATE
EMBASSIES
DEPUTY MINISTER FOR MULTILATERAL AFFAIRS
DEPUTY MINISTER FOR FOREIGN AFFAIRS
GENERAL SECRETARIAT
DIPLOMATIC ACADEMY DIRECTORATE
PERMANENT DELEGATIONS TO INTERNATIONAL, MULTILATERAL AND REGIONAL ORGANIZATIONS
Coordination: Diplomatic Ceremonies
Coordination: Privileges and Immunities
Coordination: Economic Affairs
Coordination: Social Affairs
Coordination: Environmental Affairs
Cultural Affairs Directorate
Multilateral Economic, Social and Environmental Affairs Directorate
Human Rights and International Humanitarian Law Directorate
Multilateral Political Affairs Directorate
Coordination: Political Affairs
Coordination: Institutional Affairs
Coordination: Disarmament
Coordination: Drugs
Coordination: United Nations Security Council
Coordination: International Cooperation
Coordination: Research on San Andrés
COORDINATION: BORDER INTEGRATION & DEVELOPMENT DIRECTORATE
Coordination: Border Integration
Coordination: Border Development
Coordination: Intersectoral Commission for Border Integration & Development
Coordination: United States, Canada & Summit of the Americas
TERRITORIAL SOVEREIGNTY DIRECTORATE
Coordination: Land borders
Coordination: Marine Affairs and Amazon Cooperation Treaty
Coordination: Cartography and Border Incidents
BILATERAL AND REGIONAL AFFAIRS DIRECTORATE
Coordination: Europe
Coordination: Latin America & the Caribbean
Coordination: Integration and Coordination
Coordination: Asia, Africa & Oceania
INTERNAL CONTROL OFFICE
Coordination: Travel Expenses
FINANCIAL AND ADMINISTRATIVE DIRECTORATE
CONSULAR AFFAIRS & COLOMBIAN COMMUNITIES ABROAD DIRECTORATE
CONSULATES
HUMAN RESOURCES DIRECTORATE
INTERNAL DISCIPLINARY CONTROL DIRECTORATE
Coordination: Ministry of Foreign Affairs Revolving Fund
Coordination: Finance
Coordination: Tenders & Contracts
Coordination: Organizational Development & Systems
Coordination: General Services
Coordination: Payroll and Benefits/Ovidio Gonzales
Coordination: Welfare & Training
Coordination: Vacancies Management
Coordination: Management of Diplomatic Training
Coordination: Management of Agreements
Coordination: Assistance to Compatriots & Promotion of Colombian Communities Abroad
Coordination: Visas & Immigration
Coordination: Passports
Coordination: Authentications & Certifications
Coordination: Consular Affairs
LEGEND
Line of authority
Advisory and coordination services
Attached

S/2002/1084

Notes

[1] Superintendence of Banks, Superintendence of Notaries and Registries, Superintendence of Industry and Trade, Superintendence of Companies, Superintendence of Securities, Superintendence of Health, Superintendence of Private Economic Social Assistance and Directorate of National Taxes and Customs.

[2] Article 345 reads:

> "Management of resources linked to terrorist activities. Any person who manages money or assets linked to terrorist activities shall be liable to a term of imprisonment of between six (6) and twelve (12) years and to a fine of between two hundred (200) and ten thousand (10,000) times the minimum statutory monthly wage".

[3] Article 67 reads:

> "Confiscation. The instruments and assets which are used to commit the punishable act or which are derived from the commission of such act, and which are not freely tradable, shall be appropriated by the Office of the Prosecutor-General or an entity designated by that Office, unless the law provides for their destruction or different disposition. The same measures shall apply to intentional offences, when the assets that are fully tradable and belong to the criminally liable person are used to commit a punishable act or are derived from the commission of such act.
>
> "In culpable negligence, automobiles, ships, aircraft or any wheeled vehicles and other freely tradable objects shall be submitted for technical inspection within ten (10) working days from the time they were officially appropriated and shall be provisionally handed over to the owner or the legitimate holder, unless their seizure and attachment have been requested and ordered. However, in the case of public transport vehicles, they may be handed over for temporary custody to the legal representative of the enterprise involved, who shall be required to give an account of what occurred and to return the vehicle if a judicial official so orders. In such cases, until a final decision is reached, the public transport vehicle shall not be handed over.
>
> "The handover shall be final once payment of damages has been guaranteed, sufficient property of the accused has been seized to cover such payment, or one year has elapsed since the commission of the act without assignment of the object.
>
> "In investigations of crimes against intellectual property, copyright and industrial property, or of crimes in which contamination, falsification, alteration, imitation or simulation of products endangers the life or health of persons, any confiscated products, merchandise, publications, samples, reproductions, moulds, plates, stencils, negatives, tapes, covers or labels shall be subjected to judicial inspection with expert assistance and, once it has thereby been demonstrated that they are illicit, shall be destroyed by Judicial Police authorities in the presence of a judicial official and any civil party to the case.
>
> "Confiscated goods intended directly or indirectly for the production, reproduction, distribution, transport or trading of illicit samples or products may automatically be seized and attached or confiscated and, after appraisal, those which are not to be destroyed shall be assigned as part of the court sentence to the victims of the punishable act as compensation for damages, or arrangements shall be made to have them auctioned off for that purpose.
>
> "The assets or products referred to in articles 300, 306, 307, 372, 373 and 374 of the Penal Code shall, after confiscation, be subjected to judicial inspection with expert assistance and, once it has thereby been demonstrated that they are illicit, shall be destroyed by Judicial Police authorities in the presence of a judicial official."

[4] As earlier indicated, the term "freezing" does not exist in our legislation. However, it is understood to mean that a precautionary measure is taken to expropriate assets or to restrict the right of ownership. Various terms are used interchangeably as synonyms of "freezing": arrest, confiscation, seizure, attachment, possession, or suspension of dispositive power.

[5] An informal group which, to date, comprises 69 financial intelligence units from around the world. It should be noted that Colombia has just been elected Vice-President of the Egmont Group, providing international recognition of the work carried out by our Information and Financial Analysis Unit in the short time since it was established.

[6] *Source*: *Control de Armas y Homicidio en Colombia* (Arms and homicide control in Colombia). Ministry of National Defence, Republic of Colombia, June 2001.